

WORKSHOP  
APALACHICOLA CITY COMMISSION  
TUESDAY, JANUARY 26, 2022 – 4:00PM  
BATTERY PARK COMMUNITY CENTER  
1 BAY AVE., APALACHICOLA, FLORIDA 32320

**Agenda**

You are welcome to comment on any matter under consideration by the Apalachicola City Commission when recognized to do so by the Mayor. Once recognized please rise to the podium, state your name for the record and adhere to the three minute time limit for public comment. Comments may also be sent by email to the City Manager or to Commissioners.

**I. Call to Order**

- Invocation
- Pledge of Allegiance

**II. Ordinance Workshop**

**III. Public Comment**

**VI. Adjournment**

Any person who desires to appeal any decision at this meeting will need a record of the proceeding and for this purpose, may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 48 hours in advance of the meeting.

## **Ordinance Workshop, 1/26/2022**

### **Topics for discussion submitted by Commissioner Despina George**

#### **1.- Ordinance 2020-04 – Need to identify and address city ordinances repealed with the adoption of new code with Municode.**

Ordinance 2020-04 adopted a new code with Municode. The ordinance states that *“All ordinances of a general and permanent nature enacted on or before October 2, 2018 and not included in the Code or recognized and continued in force by reference therein, are repealed.”*

Municode contains a cross reference table showing city ordinances which have been included in the new code: [Apalachicola, FL Code of Ordinances \(municode.com\)](http://Apalachicola, FL Code of Ordinances (municode.com))

Issues for discussion:

- a) Status/action needed for ordinances inadvertently repealed, including Ordinance 2013-03 which incorporated the historic guidelines into the land development code and Ordinance 88-11, which established the CRA.
- b) Determine whether there are other ordinances that were inadvertently repealed which have not been identified.

Attachments: Ordinance 2020-04 and 2013-03

#### **2.- Comprehensive Plan – Need to review and update the city’s comprehensive plan.**

Recent city planning/visioning efforts and controversy surrounding the most recent revision to the city’s comprehensive plan (concerning the city’s historic squares) point to the need to review the comprehensive plan.

Issues for discussion:

- a) Ordinance 2013-01 amended the comprehensive plan to amend land use including classification of city squares as Public Facilities – Historic City Squares, with land use goals, objectives, and policies. Review and interpret ordinance, and perhaps move forward with prescribed public participation process to develop recommended use ideas.
- b) Plan to review comprehensive plan and identify needed updates (with professional assistance), so that the plan will be the blueprint for future visioning.

Attachments: Ordinance 2013-01 and 2019 correspondence with DEO

**Ordinance workshop, 1/26/22 (continued)**

**3.-Encroachments – Need to workshop and develop encroachment ordinance.**

There has been no city commission workshop discussion of an encroachment ordinance, although a draft ordinance was prepared in 2021 by former city attorney Kristy Banks at the direction of Mayor Begos. Around the same time, the attorney for a local nonprofit organization sent the city commissioners another proposal and analysis.

Issues for discussion:

- a) City attorney to advise the commission on steps to develop an ordinance.

Attachments: Draft ordinance 2021-03 and correspondence/draft ordinance from Hopping, Green & Sams.

**4.- Ordinance (or other measures) to protect the visual landscape of the City of Apalachicola.** - General discussion of commission's interest in protecting the city plat from further destruction from vacating streets and alleys for private use or sale of public recreational properties, measures to preserve our 35' height restriction, etc.

**5.-Scrivener's error in land development code re parking mitigation.** – Details to be provided for scrivener's error discovered in 2018.

holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

*Acknowledgments*

This publication was under the direct supervision of Julie Lovelace, Vice President - Code, and Amanda Heath and Rebecca D. Evans, Editors, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Lee Mathis, former City Manager, Ron Nalley, current City Manager, J. Patrick Floyd, City Attorney, and Deborah Guillotte, City Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the City readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the City's affairs.

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Municipal Code Corporation and the City of Apalachicola, Florida. 2019.

ORDINANCE NO. 2020-04

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF APALACHICOLA, FLORIDA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COMMISSION:

Section 1. The Code entitled "Code of Ordinances, City of Apalachicola, Florida," published by Municipal Code Corporation, consisting of chapters 1 through 115, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before October 2, 2018, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a of not more than five hundred dollars (\$500.00), or by imprisonment for a period not exceeding sixty (60) days, or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any such ordinance, resolution, rule, regulation or order shall continue shall constitute a separate offense.

In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance, resolution, rule, regulation or order shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the City to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after October 2, 2018, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective immediately upon final adoption.

This Ordinance was read and adopted on MAY 5TH, 2020. Motion to adopt ordinance made by Commissioner ASH, second by Commissioner GROVE.

Voting Aye: COMMISSIONERS ASH, GROVE, ELLIOTT, MAYOR BEGOS

Voting Nay: COMMISSIONER GEORGE

5/10/2021

Apalachicola, FL Code of Ordinances

FOR THE CITY COMMISSION OF THE CITY OF APALACHICOLA

/s/

\_\_\_\_\_  
Kevin Begos, Mayor

ATTEST:

/s/ \_\_\_\_\_ Deborah  
Guillotte, City Clerk

**ORDINANCE NO. 2013-03**

**AN ORDINANCE ADOPTING THE HISTORIC GUIDELINES INTO THE APALACHICOLA CODE OF ORDINANCES; PROVIDING FOR APPLICABILITY; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE**

**WHEREAS**, there are located within the City of Apalachicola, sites, building, structures, objects and areas, both public and private, which are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived; and

**WHEREAS**, the City of Apalachicola features an historic district with structures listed on the National Historic Landmark list; and

**WHEREAS**, the recognition, protection, enhancement and use of such resources is a public purpose and is essential to the health, safety, morals, and economic, educational cultural and general welfare of the public, since these efforts result in the enhancement of property values: the stabilization of neighborhoods and areas of the City, the increase of economic benefits to the City and its inhabitants: the promotion of local interests: the enrichment of human life in its educational and cultural dimensions serving spiritual as well as material needs, and the fostering of civic pride in the beauty and noble accomplishments of the past; and

**WHEREAS**, the identification, protection, enhancement, perpetuation and use of districts, sites, buildings, structures, objects and areas that are reminders of past eras, events and persons important in local, state or national history, or which provides significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide this and future generations examples of the physical surroundings in which past generations lived; and

**WHEREAS**, historic preservation and respectful renovation of historic structures in the historic district is critical to the integrity of the City's historic district; and

**WHEREAS**, it is the duty of the City Architectural Review Committee to pass upon plans for the erection, construction, alteration, renovation, and razing of all buildings or structures located or to be located within the District, affecting the outward appearance of all such buildings or structures; and

**WHEREAS**, the City currently has adopted guidelines developed to establish standards and criteria for determining visual compatibility based largely on the U. S. Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures; and

**WHEREAS**, the City seeks to establish specific development standards for historic district.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA THAT THE CITY'S HISTORIC GUIDELINES BE INCORPORATED INTO THE CITY'S LAND DEVELOPMENT REGULATIONS AND ARE HEREBY ADOPTED. ANY CONFLICTS THEREIN SHALL BE GOVERNED BY THE MOST STRINGENT STANDARD.

This Ordinance was first read in open session on the 2<sup>nd</sup> day of July, 2013. This Ordinance was read for the second time and fully adopted on the 10<sup>th</sup> day of August, 2013. The final adoption and motion was made by Commissioner Bartley, second by Commissioner COOK.

Voting Aye: Elliot, Ash, Bartley, Cook, Mayor Johnson

Voting Nay: None

FOR THE CITY COMMISSION OF THE  
CITY OF APALACHICOLA, FLORIDA

Van W. Johnson, Sr.  
VAN W. JOHNSON, SR., MAYOR

ATTEST:

Lee H. Mathes  
LEE H. MATHES, CITY CLERK



ORDINANCE 2013 - 01  
CITY OF APALACHICOLA, FLORIDA

AN ORDINANCE BY THE APALACHICOLA CITY COMMISSION OF THE CITY OF APALACHICOLA, FLORIDA AMENDING THE CITY OF APALACHICOLA COMPREHENSIVE PLAN TO AMEND THE PERMITTED LAND USE OF SEVERAL CITY-OWNED PROPERTIES FROM RESIDENTIAL AND COMMERCIAL TO RECREATIONAL AND PUBLIC FACILITIES; TO AMEND THE CITY'S COASTAL HIGH HAZARD MAP; PROVIDE FOR THE REPEAL OF ANY ORDINANCE IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Apalachicola, Florida has received a recommendation from the Apalachicola Planning and Zoning Board for changing the land use of certain parcels of publically-owned property, and to update its Coastal High Hazard Map, and

WHEREAS, the City Commission has conducted a public hearing with due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE APALACHICOLA CITY COMMISSION that:

**SECTION 1:** The land use of the parcels identified in attachment A and identified on the Future Land Use Map (Attachment B) are hereby amended from Commercial and Residential respectively to Recreation and Public Facilities. Further, the land use of the City Square parcels identified in attachments A & B are hereby sub-classified as Public Facilities Historic City Square.

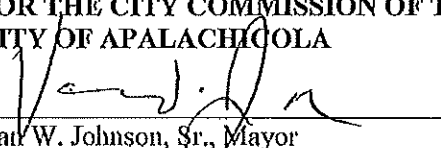
**SECTION 2:** The City's Coastal High Hazard Map (attachment C) is hereby amended.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith, to the extent of such conflict, are hereby repealed.

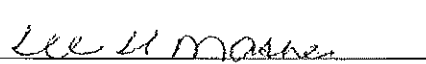
**SECTION 4:** This ordinance shall become effective upon affirmation vote of the majority of the City Commission and when approved by the Florida Department of Economic Opportunity, signed by the Mayor and appropriately attested by the City Clerk.

ADOPTED in open regular session this 5<sup>th</sup> day of November 2013

FOR THE CITY COMMISSION OF THE  
CITY OF APALACHICOLA

  
\_\_\_\_\_  
Van W. Johnson, Sr., Mayor

ATTEST:

  
\_\_\_\_\_  
Lee H. Mathes, City Clerk



# CITY OF APALACHICOLA

1 Bay Avenue • Apalachicola Florida 32320 • 850-653-9319 • Fax 850-653-2205  
www.cityofapalachicola.com

Mayor  
Van W. Johnson, Sr.

July 10, 2013

Commissioners  
Brenda Ash  
John M. Bartley, Sr.  
Frank Cook  
James L. Elliott

City Administrator  
Betty Taylor-Webb

City Clerk  
Lee H. Mathes, CMC

City Attorney  
J. Patrick Floyd

Mr. D. Ray Eubanks  
Department of Economic Opportunity  
State Land Planning agency  
Caldwell Building  
107 East Madison – MSC 160  
Tallahassee, FL 32329

Dear Mr. Eubanks:

On July 2, 2013, the Apalachicola City Commission, in its capacity as local planning agency and the local governing board, held a transmittal hearing to approve transmittal of proposed comprehensive plan changes in accordance with Section 163.3184 (2)(c), F.S., The City of Apalachicola is an Area of Critical State Concern designated pursuant to Section 380.05, F.S. These transmitted changes are being submitted for State Coordinated Review within 10 working days of the duly advertised transmittal hearing pursuant to Section 163.3184 (4)b, F.S. Previous to the transmittal hearing, the City Commission and Planning Board held publically advertised workshops and the City Planning & Zoning Board recommended the changes at its regularly scheduled meeting. Pending state review approval, this amendment is expected to be adopted in September, 2013.

Summary: The City of Apalachicola is proposing changes to many publically-owned parcels in the City to better match the traditional and existing use of the publically-owned land as either public facilities or recreational. The parcels in question are currently tucked amid commercial or residential land use areas. There are three separate types of parcels that are being proposed for change: Florida Communities Trust parcels, Historic Public Squares and miscellaneous cleanup of parcel identification. There is also a proposed change of one parcel from public facilities to residential to accommodate a public housing project slated for the parcel.

The City is also adopting most recent Coastal High Hazard maps with this proposed change.

This transmittal package consists of the following:


- Ordinance 2013-01, amending the Apalachicola Comprehensive Plan to change the land use of several city-owned properties from residential and commercial to recreational and public facilities, change the land use of a parcel from public facilities to residential to accommodate a public housing development, sub-classify several city-owned parcels from public facilities to public facilities historic city square and amend the City's Coastal High Hazard map.

- Future Land Use Map with changes
- Existing Land Use Map
- Data and analysis text to support changes
- Land Use Goals, Objectives & Policies
- Coastal High Hazard Map

A complete copy of this transmittal package was sent to all required agencies including the Apalachee Regional Planning Council, Northwest Florida Water Management District, Department of Transportation, Department of Environmental Protection, Department of State and the Franklin County Planning Office.

If you have any questions about this matter you can contact me at (850) 653-8222.

Sincerely

  
Betty Taylor Webb  
City Administrator

Cc: Charles Blume, Apalachee RPC  
Tracy Suber, DOE  
Suzanne E. Raye, DEP  
Deena Woodward, DOS  
Virgie Bowen, DOT  
Douglas E. Barr, NFWFMD

**PUBLIC PARCEL DESIGNATION CHANGES.**

The City is proposing changes to many publically owned parcels in the City to better match the traditional and existing use of the publically owned land as either public facilities or recreation. Many of the parcels are tucked into commercial or residential districts. There are three separate types of parcels that are being planned for change: *FCT parcels*, *Historic Public Squares* and *Miscellaneous cleanup of parcel identification*.

**FCT Parcels.** The City of Apalachicola has not conducted a consistency review of its Land Use Maps since 1989. Since then, the City has purchased several vacant parcels of land along the river and bayfront using Florida Communities Trust (FCT) and Florida Forever Funding. One of the requirements of purchasing parcels with funding from the State is that the land use designation for the parcels must either be recreation or some other public use designation. Most of the parcels that have been purchased over the years are currently designated as either residential or commercial in land use. This proposed land use change would change the FCT parcels to recreation for all but one parcel. The Holy Family parcel is being changed to public facilities. The FCT parcels are identified below and identified on the proposed land use map.

*Riverwalk Park - Sineath Parcel (08-078-FF8)*

1. Lots 1, 2, 3, 18, 19, 20 and part of 4 and 17 in Block M. Existing land use is commercial – proposed as recreational.
2. Lots 1, 2, 3, 4, 5, 17, 18, 19, 20 and part of 6 and 16 in Block L. Existing land use is commercial – proposed as recreational.
3. Lots 10-11 and part of 9 and 12 in Block K1. Existing land use is commercial – proposed as recreational.
4. All of Wharf Lot 1. Existing land use is commercial – proposed as recreational.
4. All of Wharf Lot 38 Existing land use is commercial – proposed as recreational.
4. Part of Wharf Lot 37 (squares off with what is owned in Block K1) Existing land use is commercial – proposed as recreational.
4. Part of Wharf Lot 39 (squares off with what is owned in Block L) Existing land use is commercial – proposed as recreational.

*Riverwalk Park - McLemore Parcel (08-078-FF8)*

5. All of Block K2. Existing land use is commercial – proposed as recreational.

*Riverfront Park - (93-011-P3A)*

6. Wharf Lots C, D, 20, 21, 22. Existing land use is commercial – proposed as recreational. Wharf Lot D existing land use is public facilities propped as recreational.

*Cotton Exchange - (06-048-FF6)*

7. Block E, Lots 9, 12. Existing land use is commercial – proposed as recreational.

*Battery Park Annex - (04-063-FF4)*

8. Wharf Lots 4, 5 1/2 of 6. (note: the other half of Lot 6 was transferred to city from county so it is not FCT but it is changing to match FCT designation). Existing land use is commercial – proposed as recreational.

*Bayside Park - (07-111-FF7)*

10. Lots 1-5 Bay Colony Subdivision on the South Side of Highway 98 in the Two Mile Area between 23rd Street and Shadow Lane, less easement for Bay Colony. Existing land use is commercial – proposed as recreational.

*Bay Avenue Park - (07-111-FF7)*

11. Block 197, Lots 6-10. Existing land use is residential – proposed as recreational.

*Holy Family - (00-001-CS6)*

12. Block 176, Lots 6-10

*Apalachicola Boatworks (08-006-WW1)*

9. Wharf Lots A, 7 - (note: Wharf lot A is City-owned but is not FCT parcel. It is changing to match adjacent FCT designation). Existing land use is commercial – proposed as recreational.

Miscellaneous cleanup of parcel identification. These represent various parcels that the City has purchased during since 1989. The proposed Land use changes are shown next to the identified parcel.

13. Block 236, Lots 4-15, Proposed change from Residential to Recreation Land Use;
14. Block 32, Lots 6 & 7, abutting City Square, Proposed change from Residential to Public Facilities Land Use;
15. Block 24, Lot 3, abutting Gorrie Square, Proposed change from Residential to Public Facilities Land Use;
16. Block F-1, Lots 1-5 and 16, 17, (City offices and vacant land) Proposed change from Commercial to Public Facilities Land Use;
17. Block 3, Lots 4 & 5, (Raney House) Proposed change from Commercial to Public Facilities Land Use;
18. Block 5, Lot 4, (Lift Station) Proposed change from Commercial to Public facilities Land Use;
19. Block J-2, Lots 1-20, (Parking Lot) Proposed change from Commercial to Public Facilities Land Use;
20. Block A-1, Lots 10-14, Block A-2, Lots 1-14, (Courthouse Annex), Proposed change from Commercial to Public Facilities Land Use;
21. Block 9, Lots 1-3, (Armory), Proposed change from Commercial to Public Facilities Land Use;
22. Block 189, Lots 6-10, (3 Servicemen) Proposed change from Commercial to Recreation Land Use;
23. Block 188, Lots 1-10, (Orman House) Proposed change from Residential to Recreation Land Use;
24. Block 190, Lots 6-10, (Botanical Gardens), Proposed change from Public facilities to Recreation Land Use;
25. Block 187, Lots 1-5, (Botanical Gardens), Proposed change from Public facilities to Recreation Land Use;
26. Block 191, All of Block, no lots, (Botanical Gardens), Proposed change from Commercial to Recreation Land Use;
27. Block 186, Lots 1-8, (Botanical Gardens), Proposed change from Residential to Recreation Land Use;
28. Block 185, Lots 1-3 and 8-10, (Botanical Gardens and Water Tank Property), Proposed change from Residential to Recreation Land Use;
29. Block 184, Lots 6-8, (Scipio Creek Marina Lots), Proposed change from Residential to Public Facilities Land Use;
30. Block 181, Lot 8, abutting Franklin Square, Proposed change from Residential to Recreation Land Use;
31. Wharf Lot B, G, Proposed change from Public Facilities to Recreation;
32. Block 126, Lots 1-10; Block 127, ½ of lots 5 & 6; Block 130 ½ of Lots 5&6, Block 131, ½ of Lots 6-10; (Chapman High School property -- proposed housing development), Proposed change from Public facilities to Residential Land Use.
33. Wharf Lot F: Proposed change from Public Facilities to Commercial. (Note: this parcel is not city-owned and is changing to match adjacent private ownership land use.
34. Wharf Lots Partial 41, 42-49, K, L, (Platted lots located in Scipio Creek channel) Proposed change from Commercial to Recreational Land Use.

41. Block F, Lots 1-14; Block I, Lots 1-14; Block E, Lots 1-5. Proposed change from Residential to Recreation Land Use.

**Historic City Squares.** Franklin Square is shown on the 1989 Future Land Use Map as Recreation. The proposed land use change is to Public Facilities, Historic Squares. The other five Squares are shown in the 1989 Future Land Use Map as Public Facilities. The proposed land use change is to Public Facilities, Historic Squares.

*Gorrie Square*

35. Block 15, Lots 6 & 7; Block 16, Lots 9 & 10; Block 23, Lots 1 & 2; Block 24, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots.

*City Square*

36. Block 60, Lots 9 & 10; Block 69, Lots 1 & 2; Block 32, Lots 4 & 5; and that part of Chestnut Street Cemetery that is Block 31, Lots 6 & 7; and the Streets and Avenues owned by the City that fall in between these lots. NOTE: B-D has Square shown with alleys included, correct?

*Franklin Square*

37. Block 181, Lots 6 & 7; Block 182, Lots 9 & 10; Block 175, Lots 1 & 2; Block 176, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots.

*Madison Square*

38. Block 141, Lots 6 & 7; Block 142, Lots 9 & 10; Block 135, Lots 1 & 2; that part of Chapman High School that is Block 136, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots. NOTE: B-D shows Square with alleys included, correct?

*Chapman Square*

39. Block 55, Lots 6 & 7; Block 56, Lots 9 & 10; Block 95, Lots 1 & 2; Block 96, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots.

*Washington Square*

40. Block 73, 30' of lots 1 and 10; Block 74, Lots 1-10; Block 79, Lots 1-10; Block 80, Lots 1-10

**Data and Analysis to Support Historic City Square Public Facilities Land Use sub-classification**

*Excerpted in part, from the City of Apalachicola Historic Element, courtesy Willoughby Marshall and from the 2008 Project Riverway Report, produced by the University of Georgia Fanning Institute (Danny Bivens) and the Alliance for Quality Growth.*

The original City layout was planned as a one mile square grid in the mid 1830s by the Apalachicola Land Company. Apalachicola's original plan is said to have been based on the original plan for Philadelphia, with a large central square and five smaller squares. The original intent, according to local historian/architect Willoughby Marshall, was to have Washington Square, the larger square, as the center of town and the surrounding five squares as secondary nodes of development. It is believed that heavy emphasis on open area green space was a primary function.

The City's historic squares are identified as Washington Square, Gorrie Square, Chapman Square, Franklin Square and Madison Square and City Square. Four of the squares (Gorrie, Chapman, Madison and Franklin) are located near each of the east, west, north and south corners of the City's historic district boundary. The City Square is located southeast of the central Washington Square. The use of each square is identified below.

The central square of Apalachicola, Washington Square, is the largest, covering a four block area. It is unique in that it is completely bounded by streets, whereas the other squares are set with their centers at the intersection of two streets. The original use of Washington Square was for the courthouse, but it now the site of a hospital. Madison, Franklin Chapman and Gorrie Squares correspond to Philadelphia's four neighborhood squares, arrayed in a square around the center. City Square is Apalachicola's sixth square, and it is uniquely set off from the organized plan of the other five. Adjacent to City Square is the Chestnut Street Cemetery.

Historically, buildings were oriented toward these squares on all sides, but over time, this feature of the city's design was lost. Currently, Trinity Episcopal Church at Gorrie Square upholds this part of the city's original plan. When roads were paved, they were paved directly through the center of the squares, dividing them into four separate corners. Because the square was no longer a complete whole, but instead fractured, may have contributed to the lack of new architecture fronting onto the square. According to the Riverway Report, the network of streets and alleys surrounding each square suggests a plan similar to Savannah, GA squares for circulation in these spaces.

Once divided by roads, these squares are now vacant corners, mostly city-owned and used for various purposes. Some corners are still vacant, and others are used for a variety of things including a skate park, a library, a museum, a memorial, basketball courts and water tower. The sub-dividing of the squares has taken away any distinct sense of place they might have had, leaving them to be developed in a piece-meal fashion.

Although development patterns have altered the original design and use of the City's squares, much of the integrity of these squares remain however and it has been the expressed intent of City leaders, historic planners and preservation enthusiasts to preserve and restore the squares as much as is possible to their original intended open space use.

Architect and local historic preservation expert Willoughby Marshall has drafted proposed historic square schematics identified in the document titled "Economic Development through Historic Preservation."

Additionally, the 2008 "Project Riverway Apalachicola" report, by the Fanning Institute also outlines several options for re-thinking and redesigning the city squares to better reflect the historic intent of the squares.

The Riverway report focused on City Square with two proposed redevelopment ideas – a "True Square" based on the template created by James Oglethorpe for Savannah, Georgia and a "Circle in the Square" that takes the most important element of the Oglethorpe square but allows more flexibility.

Deciding upon any redevelopment concept for the City's historic squares would depend on individual neighborhood needs, existing use and whether the long-term goal for the space would be used for active or passive recreation.

#### **Current and Proposed Land Use**

Each of the City's publically-owned City Squares are currently identified as public facilities in terms of land use. It is recommended that the City create a subcategory of public facilities to classify the City's squares as historic public squares with specific objectives and policies relating to their use.

#### **FUTURE LAND USE ELEMENT**

##### **GOALS, OBJECTIVES AND POLICIES:**

**Goal 2: Through its land use regulations, budget prioritization and administrative management, the City will restore its historic public squares to a more natural state by 2020.**

**Objective 12: The City will create historic square overlay boundaries and adopt as part of the city's land development regulations which will specifically identify allowable uses on such parcels including, but not limited to, open space and passive recreation.**

**Policy 12-1: The City will conduct an inventory of each of the City's historic squares and through the public participation process, develop a list of recommended use ideas for each of the City squares.**

**Policy 12-2: The City will develop specific development standards for the City's historic squares.**

**Policy 12-3: The City will not permit new buildings to be built on city-owned Historic City Squares.**

Objective 13: Renovation/expansion of existing structures on City Squares will be designed to minimize footprint and maximize open space in accordance with historic square design intent.

Policy 13-1: All proposed renovation must be approved for historic compatibility by the City's Architectural Review Board.

Objective 14: The City shall include historic city square preservation in its grant seeking and visioning process.

Policy 14-1: The City shall include the historic city square design and planning when it seeks annual historic preservation grants.

Policy 14-2: The City shall seek state historic preservation technical guidance and financial assistance to redevelop the City's historic squares.

Policy 14-3: Through local historic and community organizations, the City will encourage the formation of volunteer teams to "adopt" city squares for the purpose of recommending design and improvements.

Policy 14-4: The City shall include historic city square improvements as part of its five year strategic planning document.

Policy 14-5: By 2015 the City will design appropriate informational signage and install at each City Square.

Coastal Management Element, Section XI: Natural Disaster Planning, (paragraph 3)

...As required pursuant to Chapter 9J-5.003 F.A.C. this area comprises all land in Apalachicola which falls 1. Seaward of the Coastal Construction Control Line established by the Florida Department of Natural Resources and Federal Emergency Management Agency designated V zones. These areas include all areas within Apalachicola's jurisdiction where public facilities have been damaged or undermined by coastal storms, and Section 163.3178 (2) (h), F.S. The coastal high hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricane (SLOSH) computerized storm surge model.

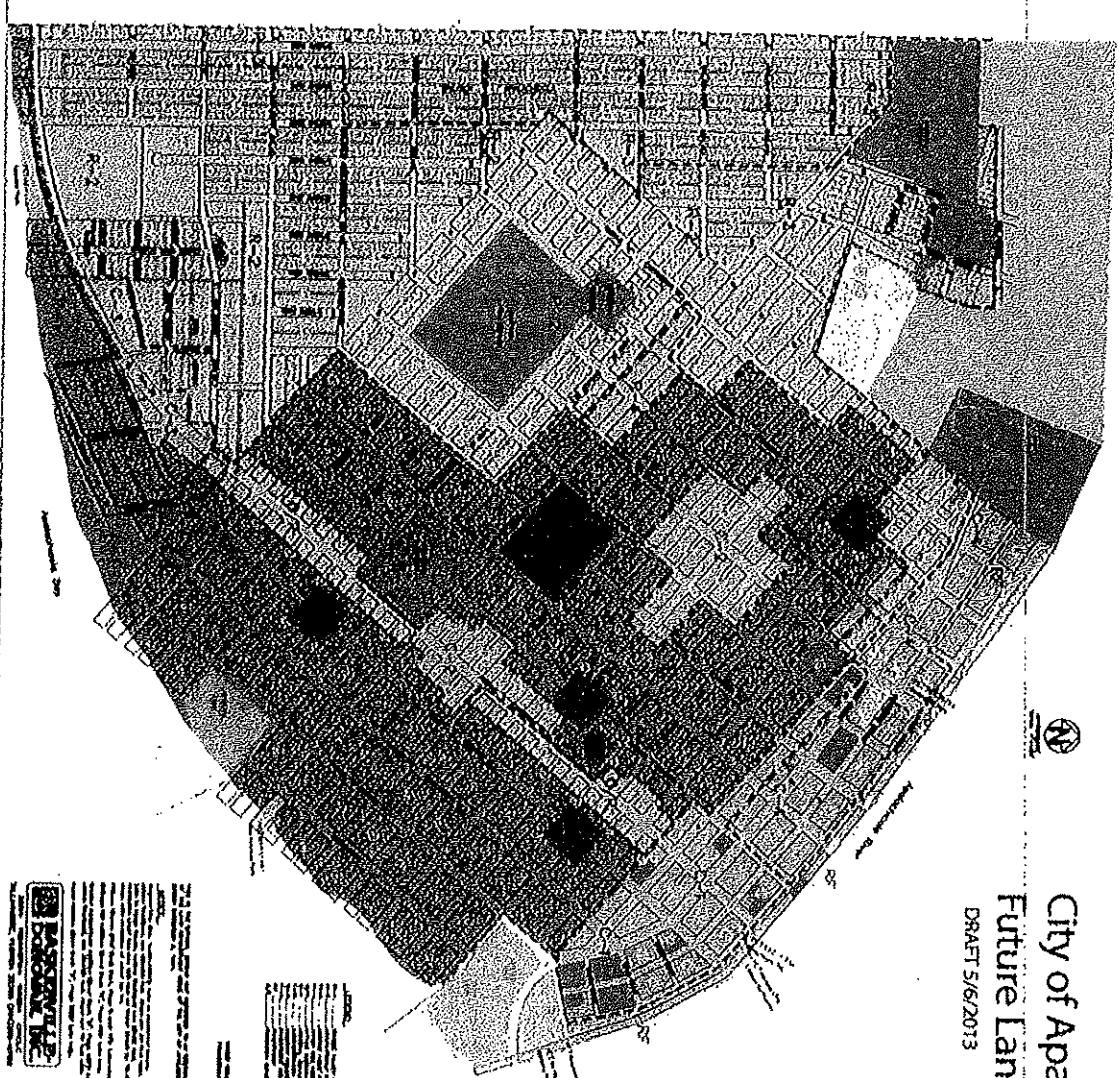




# City of Apalachicola

## Future Land Use Map

DRAFT 5/6/2013



- Residential Land Use Classifications (by density):
  - 1 unit per acre
  - 2 to 3 units per acre
  - 4 to 6 units per acre
  - 7 to 10 units per acre
  - 11 to 15 units per acre
  - 16 to 20 units per acre
  - 21 to 25 units per acre
  - 26 to 30 units per acre
- Medium-Density Residential Land Use (by density):
  - 1 unit per acre
  - 2 to 3 units per acre
- Commercial Land Use
- Recreation Land Use
- Conservation Land Use
- Public Facilities Land Use
- Public Facilities Reserve System Overlay

**LEGEND**

**RESERVED**

Public Facilities Reserve System Overlay

Public Facilities Land Use

Conservation Land Use

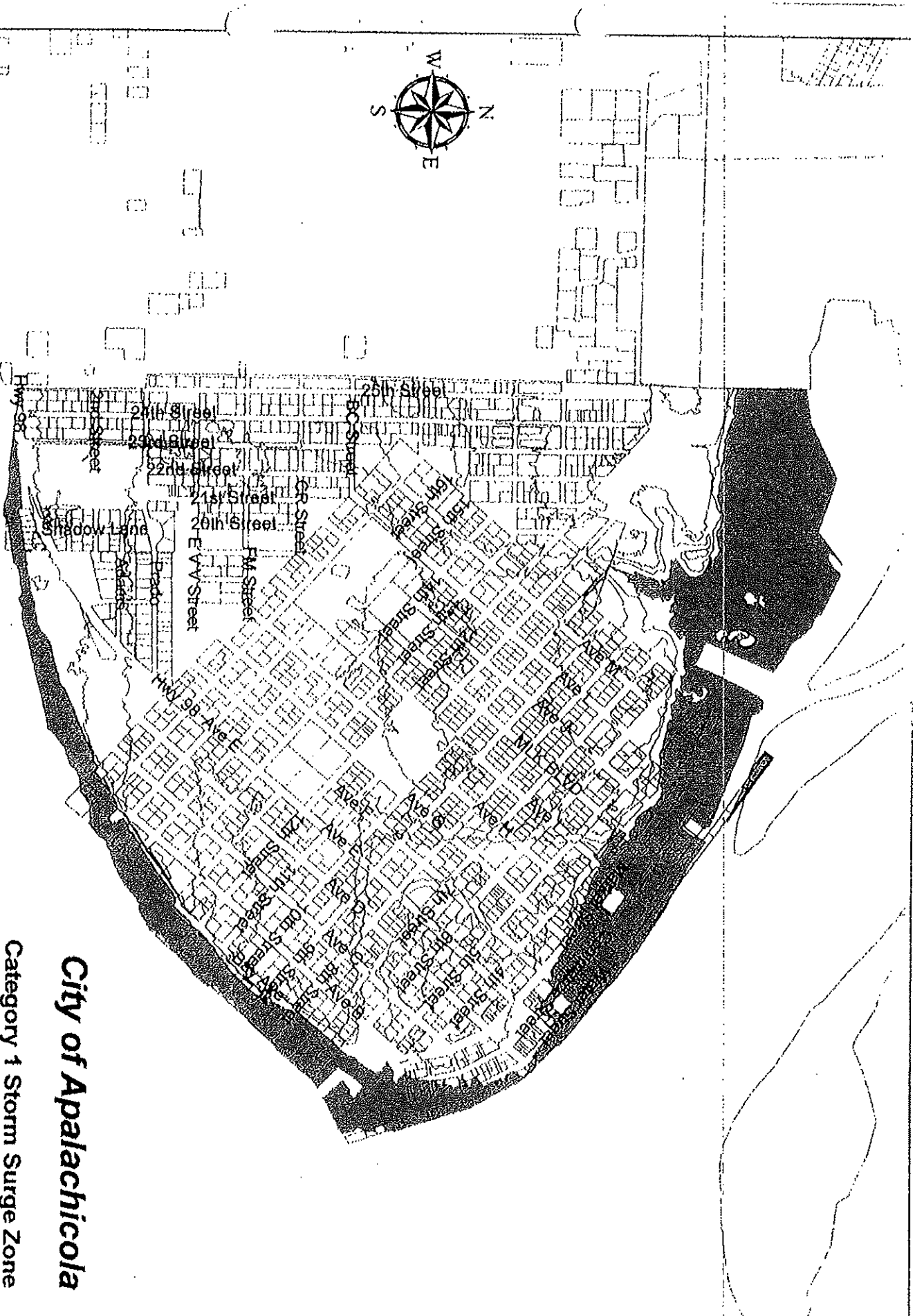
Recreation Land Use

Commercial Land Use

Medium-Density Residential Land Use (by density)

Residential Land Use Classifications (by density)

Source: ACSC, DEO  
January, 2013



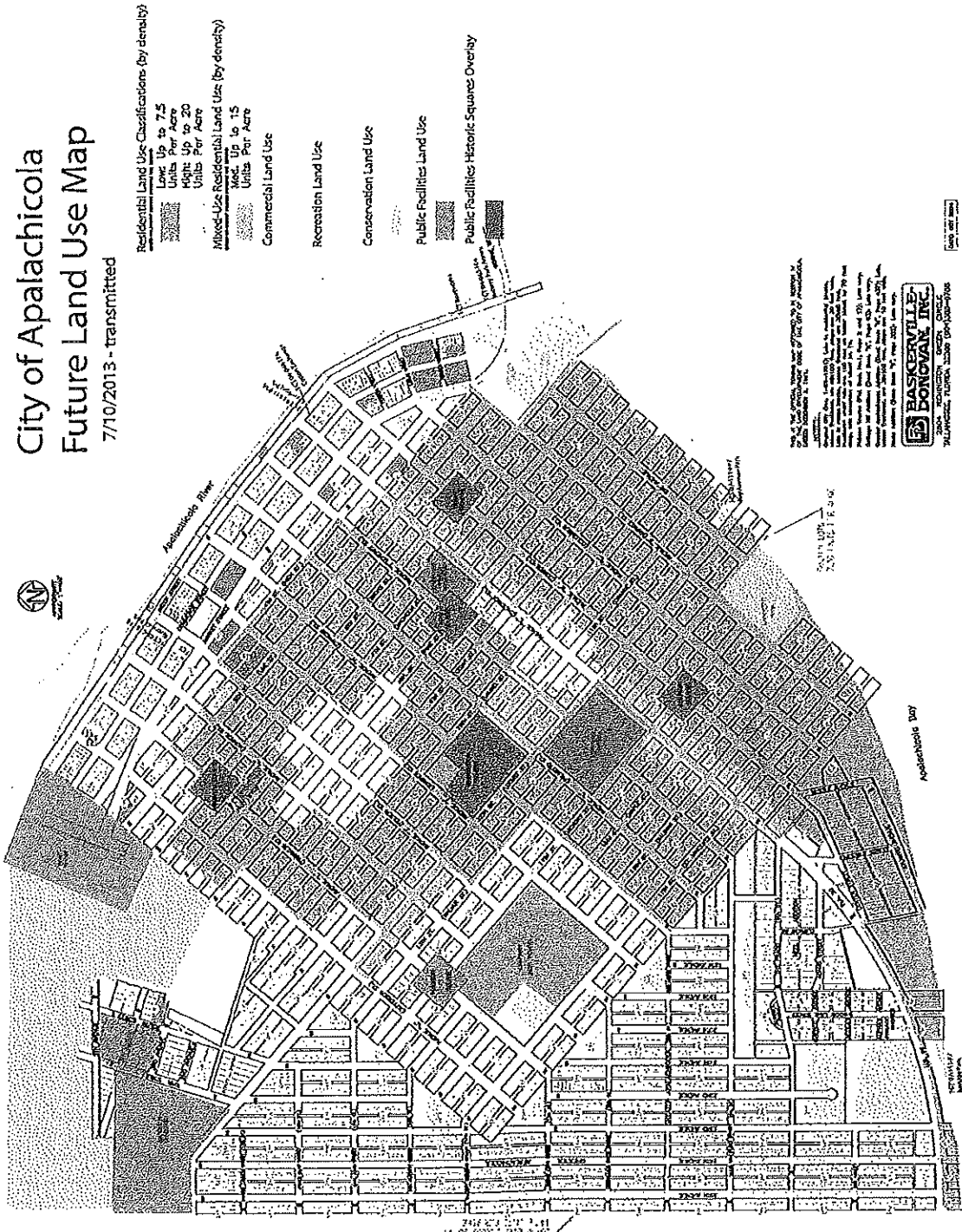
**City of Apalachicola**  
Category 1 Storm Surge Zone  
CHHA Boundary January, 2013

0 0.05 0.1 0.2 0.3 0.4  
Miles

# Attachment B-2

## City of Apalachicola Future Land Use Map

7/10/2013 - transmitted

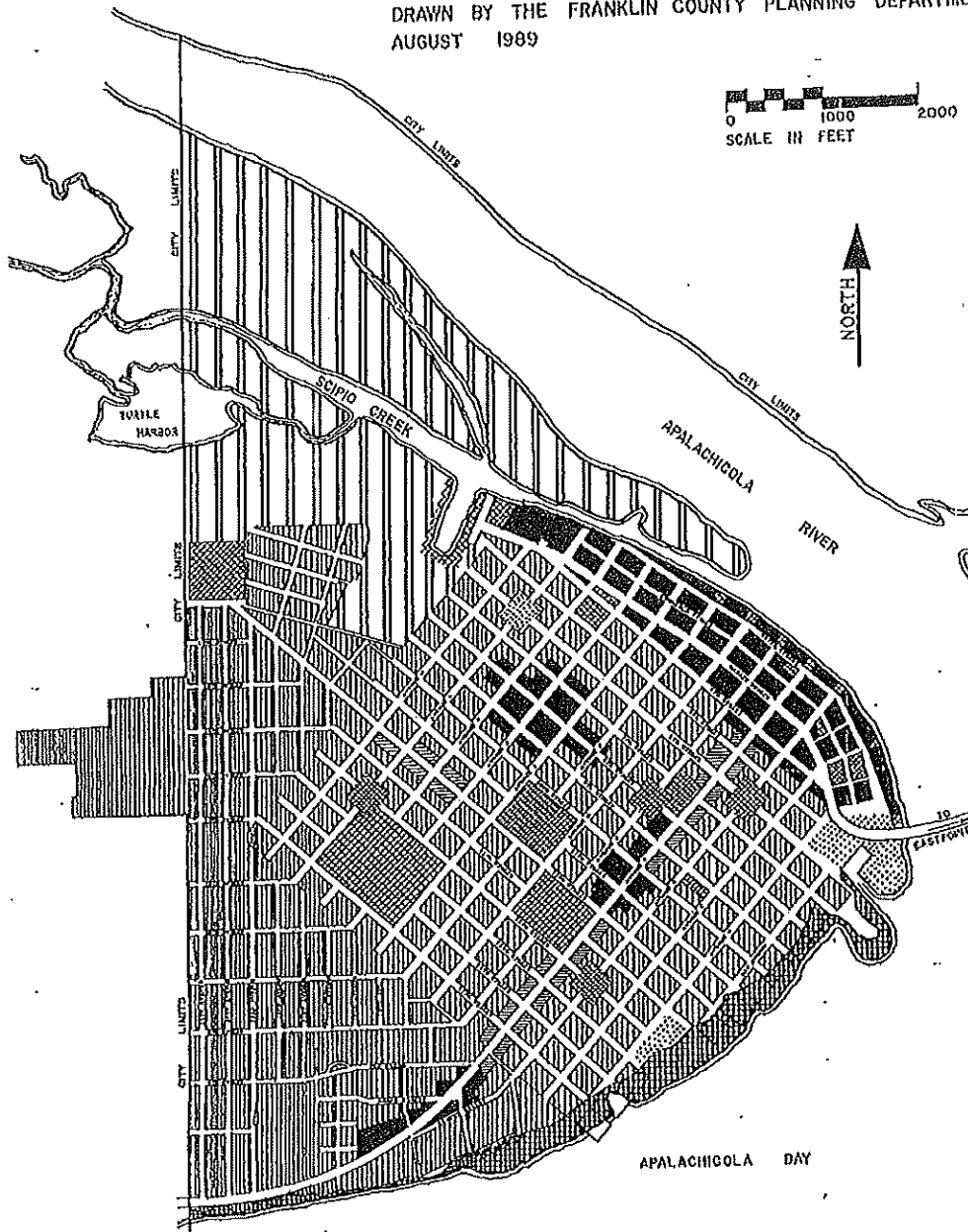


PLANNING AND ZONING DEPARTMENT  
CITY OF APALACHICOLA, FLORIDA  
1000 W. BAY STREET, SUITE 200  
APALACHICOLA, FLORIDA 32301-1000  
TEL: 904.875.1234 FAX: 904.875.1235  
WWW.CITYOFAPALACHICOLA.COM

# CITY OF APALACHICOLA

DRAWN BY THE FRANKLIN COUNTY PLANNING DEPARTMENT  
AUGUST 1989








Attachment B-3



TIME FRAME - All changes from existing land uses to be accomplished during 1990 and continue through year 2000 unless conditions change.

## MAP F1 FUTURE LAND USE

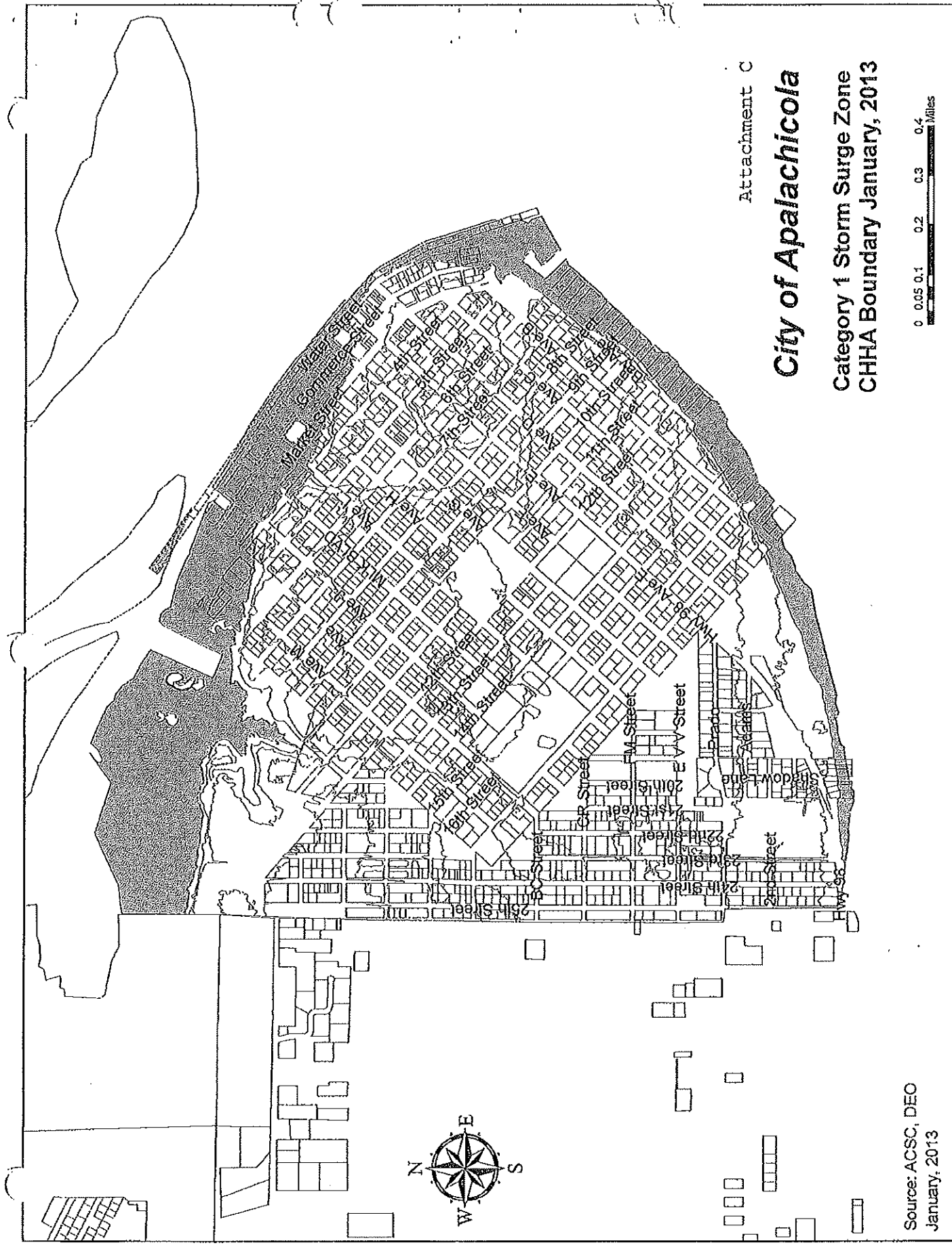
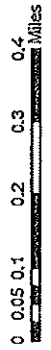
### LEGEND

- |   |  |
|---|--|
|  RESIDENTIAL           |  PUBLIC       |
|  RESIDENTIAL MIXED USE |  RECREATIONAL |
|  COMMERCIAL            |  CONSERVATION |
|  BAY TIDAL MARSHES     |  |

Attachment C

# City of Apalachicola

## Category 1 Storm Surge Zone CHHA Boundary January, 2013



Source: ACSC, DEO  
January, 2013

**DRAFT 5-2-13/Revised 5-13-13**

**Data and Analysis to Support Historic City Square Public Facilities  
Land Use sub-classification**

*Excerpted in part, from the City of Apalachicola Historic Element, courtesy Willoughby Marshall and from the 2008 Project Riverway Report, produced by the University of Georgia Fanning Institute (Danny Bivens) and the Alliance for Quality Growth.*

The original City layout was planned as a one mile square grid in the mid 1830s by the Apalachicola Land Company. Apalachicola's original plan is said to have been based on the original plan for Philadelphia, with a large central square and five smaller squares. The original intent, according to local historian/architect Willoughby Marshall, was to have Washington Square, the larger square, as the center of town and the surrounding five squares as secondary nodes of development. It is believed that heavy emphasis on open area green space was a primary function.

The City's historic squares are identified as Washington Square, Gorrie Square, Chapman Square, Franklin Square and Madison Square and City Square. Four of the squares (Gorrie, Chapman, Madison and Franklin) are located near each of the east, west, north and south corners of the City's historic district boundary. The City Square is located southeast of the central Washington Square. The use of each square is identified below.

The central square of Apalachicola, Washington Square, is the largest, covering a four block area. It is unique in that it is completely bounded by streets, whereas the other squares are set with their centers at the intersection of two streets. The original use of Washington Square was for the courthouse, but it now the site of a hospital. Madison, Franklin Chapman and Gorrie Squares correspond to Philadelphia's four neighborhood squares, arrayed in a square around the center. City Square is Apalachicola's sixth square, and it is uniquely set off from the organized plan of the other five. Adjacent to City Square is the Chestnut Street Cemetery.

Historically, buildings were oriented toward these squares on all sides, but over time, this feature of the city's design was lost. Currently, only Trinity Episcopal Church at Gorrie Square upholds this part of the city's original plan. When roads were paved, they were paved directly through the center of the squares, dividing them into four separate corners. Because the square was no longer a complete whole, but instead fractured, may have contributed to the lack of new architecture fronting onto the square. According to the Riverway Report, the network of streets and alleys surrounding each square suggests a plan similar to Savannah, GA squares for circulation in these spaces.

Once divided by roads, these squares are now vacant corners, mostly city-owned and used for various purposes. Some corners are still vacant, and others are used for a variety of things including a skate park, a library, a museum, a memorial, basketball courts and water tower. The sub-dividing of the squares has taken away any distinct sense of place they might have had, leaving them to be developed in a piece-meal fashion.

Although development patterns have altered the original design and use of the City's squares, much of the integrity of these squares remain however and it has

been the expressed intent of City leaders, historic planners and preservation enthusiasts to preserve and restore the squares as much as is possible to their original intended open space use.

Architect and local historic preservation expert Willoughby Marshall has drafted proposed historic square schematics. They are identified in attachment ....

In its 2008 Project Riverway Report, the Fanning Institute has also outlined several options for re-thinking and redesigning the city squares to better reflect the historic intent of the squares.

The Riverway report focused on City Square with two proposed redevelopment ideas -- a "True Square" based on the template created by James Oglethorpe for Savannah, Georgia and a "Circle in the Square" that takes the most important element of the Oglethorpe square but allows more flexibility.

That discussion and design examples are included in Attachment ....

Deciding upon any redevelopment concept for the City's historic squares would depend on individual neighborhood needs, existing use and whether the long-term goal for the space would be used for active or passive recreation.

#### **Current and Proposed Land Use**

Each of the City's publically-owned City Squares are currently identified as public facilities in terms of land use. It is recommended that the City create a subcategory of public facilities to classify the City's squares as historic public squares with specific objectives and policies relating to their use.

#### **GOALS, OBJECTIVES AND POLICIES:**

**Goal:** Through its land use regulations, budget prioritization and administrative management, the City will restore its historic public squares to a more natural state by 2020.

**Objective:** The City will create historic square overlay boundaries and adopt as part of the city's land development regulations which will specifically identify allowable uses on such parcels including, but not limited to, open space and passive recreation.

**Policy:** The City will conduct an inventory of each of the City's historic squares and through the public participation process, develop a list of recommended use ideas for each of the City squares.

**Policy:** The City will develop specific development standards for the City's historic squares.

**Policy:** The City will not permit new buildings to be built on city-owned Historic City Squares.

Objective: Renovation/expansion of existing structures on City Squares will be designed to minimize footprint and maximize open space design in accordance with historic square public space intent.

Policy: All proposed renovation must be reviewed for historic compatibility by the City's Architectural Review Board.

Objective: The City shall prioritize historic city square preservation in its grant seeking and visioning process.

Policy: The City shall prioritize the historic city square design and planning when it seeks annual historic preservation grants.

Policy: The City shall seek annual state historic preservation technical guidance and financial assistance to redevelop the City's historic squares.

Policy: Through local historic and community organizations, the City will encourage the formation of volunteer teams to "adopt" city squares for the purpose of recommending design and improvements.

Policy: By 2015 the City will design appropriate informational signage and install at each City Square.



*Original Plan*  
**A NEW METHOD OF THINKING ABOUT IT**



The original plan for the city of Apalachicola called for a series of 6 squares based on the design of Philadelphia, PA, which called for four neighborhood squares, with a single square in the center. The central square of Apalachicola, Washington Square, is the largest, covering a four-block area. Its unique layout is completely surrounded by streets,

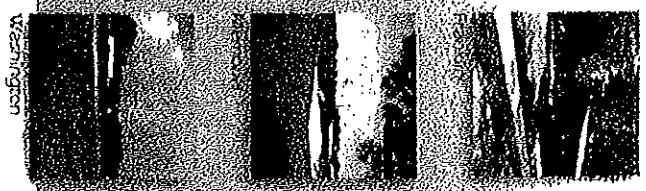
whereas the other squares are set with their centers at the intersection of two streets. The original use of Washington Square was for the courthouse, but it is now the site of a hospital. Madison, Franklin, Chapman, and Gorrie Squares correspond to Philadelphia's four neighborhood squares, arrayed in a square around the center. City Square is Apalachicola's sixth square, and it is uniquely set off from the organized plan of the other five. Adjacent to City Square is the Chestnut Street Cemetery.

Historically, buildings were oriented toward these squares on all sides, but over time, this

feature of the city's design was lost. Currently, only Trinity Episcopal Church at Gorrie Square upholds this part of the city's original plan. When roads were paved, they were paved directly through the center of the squares, dividing them into four separate corners. Because the square was no longer a complete whole, pedestrian traffic may have contributed to the lack of new architecture forming onto the square. The network of streets and alleys surrounding each square suggests a plan similar to Savannah, GA, squares for circulation in these spaces.

Once divided by roads, these squares are now vacant corners, mostly city-owned and used for various purposes. Some corners are still vacant, but others are used for a variety of things, including a lake park, a library, a museum, a memorial, basketball courts, and even a water tower. The sub-dividing of the squares has taken away any distinct sense of place they might have had, leaving them to be developed in a piecemeal fashion.

Although highlighting City Square, which is the least developed of the squares, this project is focused on a new method of thinking about the squares of Apalachicola. Long-term goals for the city include redevelopment of other squares, with City Square serving as the model. The concepts presented are intended to be a flexible solution, which can be adapted to each of the other squares depending on the issues on site.



Washington



Gorrie



City Square



*James Oglethorpe*  
 CREATING A TRUE SQUARE

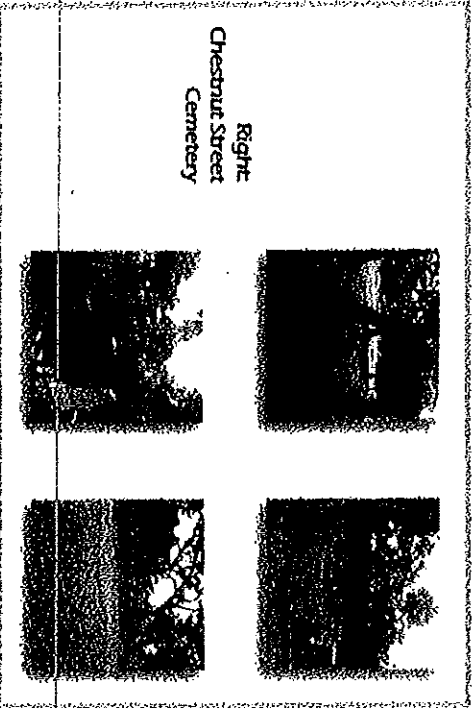
Below:  
Views out of  
City Square



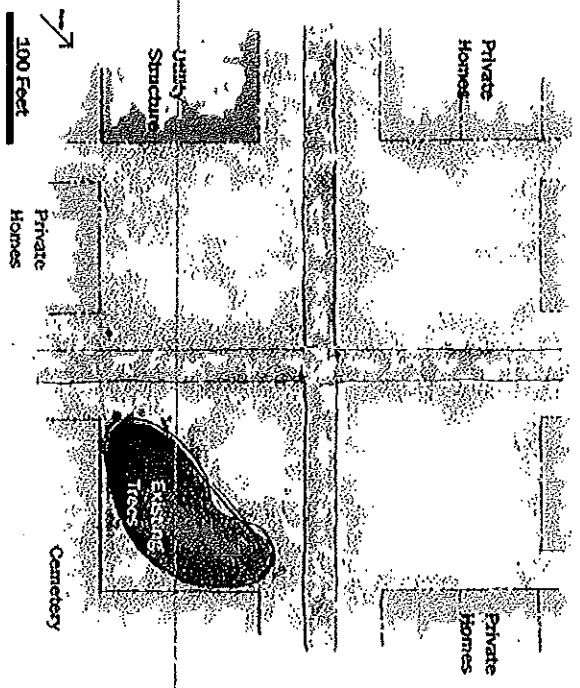
Right:  
Views into  
City Square



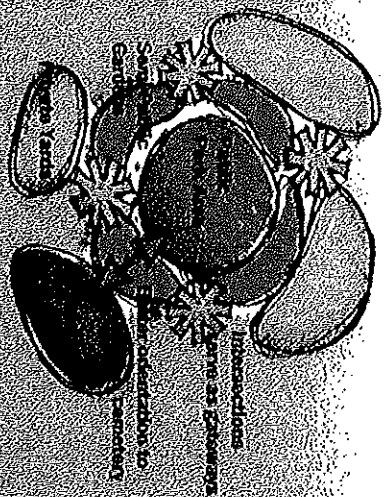
22



The most obvious way in which to redevelop City Square is to create a true square, based on the template created by James Oglethorpe for Savannah, GA. By giving the public space a distinct edge with the perimeter streets, it becomes a more well-defined place. This seems to reflect the historic intent and relates well to the existing circulation. However, this option might not be the best for City Square because of issues that would create from the proximity of houses to what would be new roads would be too close. Second, it would create an NB-southbound 90-degree turn to the cemetery, and finally, City Square has few trees, with the majority on the edge closest to the cemetery, and most of these trees would be lost if the roads were realigned to produce an Oglethorpe inspired square.



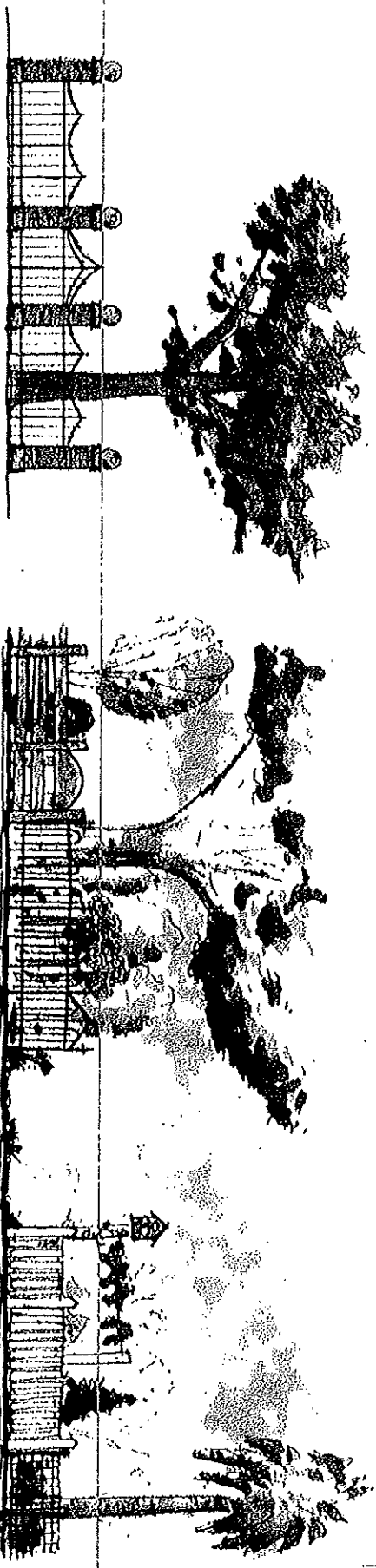
*Open for public use*  
 A CIRCLE IN THE SQUARE  
 1914-1915



The solution that best addressed these issues is what we call the "Circle in the Square". It takes the most important element of the Ogden Square, the space defined edge but allows more flexibility. The concept of a circular park rather than a square is not new; the Savannah neighborhood of Chatham Green contains five of these circles.

By establishing auto circulation in a grade around the square, the corners are left open, buffering the adjacent residential areas and preserving more of the trees adjacent to the perimeter. The exterior space around the circle can be used for community gardens, these garden plots, rented out by the city,

would serve as a semi-public buffer between the public circle and adjacent private property. The added benefit of these plots is that each garden owner's personality is allowed to show through plant choices, garden beds and fencing materials. The eclectic collection of gardens can showcase the unique personality of adjacent streets.



New Cemetery Gateway

View of Community Garden Plots from the Street

*Open for the Future*  
**PROGRAMMING: SQUARE OR CIRCLE**

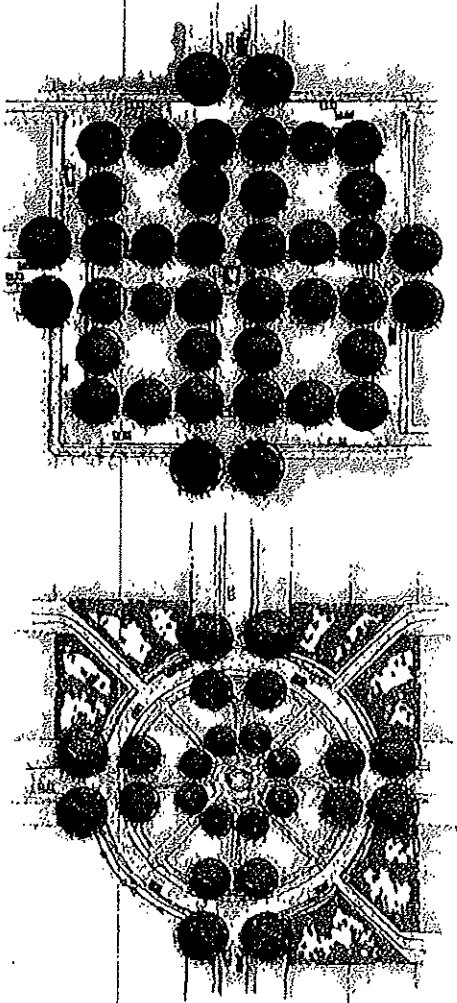
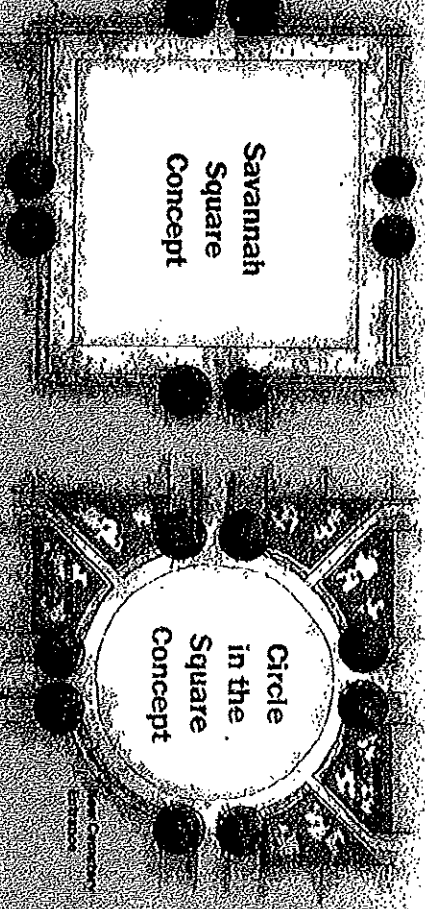
The programming for the center of either the square or the circle will depend on individual neighborhood needs.

We felt that the best way to consider this choice was by asking two questions:

Will the space be formal or informal and will the space be used for active or passive recreation?

This creates four distinct possibilities for what might happen there. A formal active use might be a rectangular or a field for games of football, kickball, or frisbee, or the other hand, an informal passive use might be a duck pond with stray trees and a small knoll for ston.

Below:  
 Circles and Squares  
 of Savannah, Ga



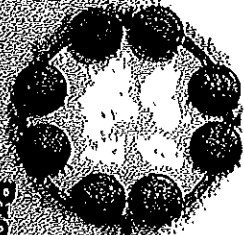
*Frank Lloyd Wright's*  
**PROGRAMMING OPTIONS**

Ultimately, this method of thinking is what we think will best determine the future of Alameda's squares.

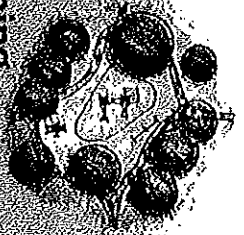
- It is simple in that it requires 3 steps:
  - 1) Circle of square creation.
  - 2) Active or Passive recreational uses.
  - 3) Formal or Informal design.

By weighing these options carefully, the community will be able to produce designs for each square uniquely tailored to the neighborhood in the case of City Squares. We felt the ground square was the most appropriate with a formal design that generally responds to the Geometric Area Concept.

Formal/Active

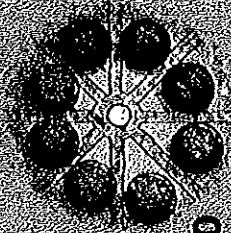


Informal/Active

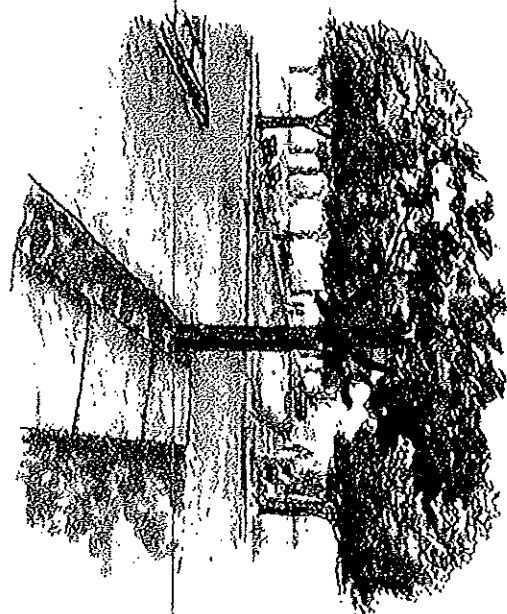
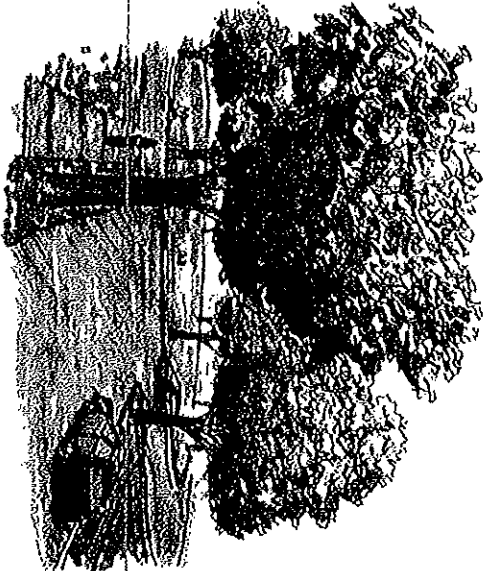
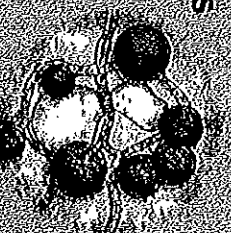


**Programming Options**

Formal/Passive



Informal/Passive



**PUBLIC PARCEL DESIGNATION CHANGES.**

The City is proposing changes to many publically owned parcels in the City to better match the traditional and existing use of the publically owned land as either public facilities or recreation. Many of the parcels are tucked into commercial or residential districts. There are three separate types of parcels that are being planned for change: *FCT parcels*, *Historic Public Squares* and *Miscellaneous cleanup of parcel identification*.

**FCT Parcels.** The City of Apalachicola has not conducted a consistency review of its Land Use Maps since 1989. Since then, the City has purchased several vacant parcels of land along the river and bayfront using Florida Communities Trust (FCT) and Florida Forever Funding. One of the requirements of purchasing parcels with funding from the State is that the land use designation for the parcels must either be recreation or some other public use designation. Most of the parcels that have been purchased over the years are currently designated as either residential or commercial in land use. This proposed land use change would change the FCT parcels to recreation for all but one parcel. The Holy Family parcel is being changed to public facilities. The FCT parcels are identified below and identified on the proposed land use map.

Riverwalk Park - Sineath Parcel (08-078-FF8)

Lots 1, 2, 3, 18, 19, 20 and part of 4 and 17 in Block M2

Lots 1, 2, 3, 4, 5, 17, 18, 19, 20 and part of 6 and 16 in Block L.

Lots 10-11 and part of 9 and 12 in Block K1.

All of Warf Lot I

All of Wharf Lot 38

Part of Wharf Lot 37 (squares off with what is owned in Block K1)

Part of Wharf Lot 39 (squares off with what is owned in Block L)

Riverwalk Park - McLemore Parcel (08-078-FF8)

All of Block K2

Riverfront Park - (93-011-P3A)

Wharf Lots C, D, 20, 21, 22

Cotton Exchange - (06-048-FF6)

Block E, Lots 9, 12

Battery Park Annex - (04-063-FF4)

Wharf Lots 4, 5 1/2 of 6. (note: the other half of Lot 6 was transferred to city from county so it is not FCT but it is changing to match FCT designation)

Bayside Park - (07-111-FF7)

Lots 1-5 Bay Colony Subdivision on the South Side of Highway 98 in the Two Mile Area between 23rd Street and Shadow Lane, less easement for Bay Colony.

Bay Avenue Park - (07-111-FF7)

Block 197, Lots 6-10

Holy Family - (00-001-CS6)

Block 176, Lots 6-10

Apalachicola Boatworks (08-006-WW1)

Wharf Lots A, 7 - (note: Wharf lot A is City-owned but is not FCT parcel. It is changing to match adjacent FCT designation)

**Miscellaneous cleanup of parcel identification.** These represent various parcels that the City has purchased during since 1989. The proposed Land use changes are shown next to the identified parcel.

Block 236, Lots 4-15, Proposed change from Residential to Recreation Land Use.

Block 32, Lots 6 & 7, abutting City Square, Proposed change from Residential to Public Facilities Land Use;

Block 24, Lot 3, abutting Gorrie Square, Proposed change from Residential to Public Facilities Land Use;

Block F-1, Lots 1-5 and 16, 17, (City offices and vacant land) Proposed change from Commercial to Public Facilities Land Use;

Block 3, Lots 4 & 5, (Raney House) Proposed change from Commercial to Public Facilities Land Use;

Block 5, Lot 4, (Lift Station) Proposed change from Commercial to Public facilities Land Use;

Block J-2, Lots 1-20, (Parking Lot) Proposed change from Commercial to Public Facilities Land Use;

Block A-1, Lots 10-14, Block A-2, Lots 1-14, (Courthouse Annex), Proposed change from Commercial to Public Facilities Land Use;

Block 9, Lots 1-3, (Armory), Proposed change from Commercial to Public Facilities Land Use;

Block 189, Lots 6-10, (3 Servicemen) Proposed change from Commercial to Public Facilities Land Use;

Block 188, Lots 1-10, (Orman House) Proposed change from Residential to Public Facilities Land Use;

Block 190, Lots 6-10, (Botanical Gardens and Water Tank Property), Proposed change from Public facilities to Recreation Land Use;

Block 187, Lots 1-10, (Botanical Gardens and Water Tank Property), Proposed change from Public facilities to Recreation Land Use;

Block 191, All of Block, no lots, (Botanical Gardens and Water Tank Property), Proposed change from Commercial to Recreation Land Use;

Block 186, Lots 1-10, (Botanical Gardens and Water Tank Property), Proposed change from Residential to Recreation Land Use;

Block 185, Lots 1-3 and 8-10, (Botanical Gardens and Water Tank Property), Proposed change from Residential to Recreation Land Use;

Block 184, Lots 6-8, (Scipio Creek Marina Lots), Proposed change from Residential to Public Facilities Land Use;

Block 181, Lot 8, abutting Franklin Square, Proposed change from Residential to Recreation Land Use;

Wharf Lot B, G, Proposed change from Public Facilities to Recreation;

Block 126, Lots 1-10; Block 127, ½ of lots 5 & 6; Block 130 ½ of Lots 5&6, Block 131, ½ of Lots 6-10; (Chapman High School property – proposed housing development), Proposed change from Public facilities to Residential Land Use.

Wharf Lot F: Proposed change from Public Facilities to Commercial. (Note: this parcel is not city-owned and is changing to match adjacent private ownership land use.

Wharf Lots Partial 41, 42-49, K, L, (Platted lots located in Scipio Creek channel) Proposed change from Commercial to Recreational Land Use.:

Wharf Lot E: City and Coast Guard, Stays Public Facilities, No Change

**Historic City Squares.** Franklin Square is shown on the 1989 Future Land Use Map as Recreation. The proposed land use change is to Public Facilities, Historic Squares. The other five Squares are shown in the

1989 Future Land Use Map as Public Facilities. The proposed land use change is to Public Facilities, Historic Squares.

#### Gorrie Square

Block 15, Lots 6 & 7; Block 16, Lots 9 & 10; Block 23, Lots 1 & 2; Block 24, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots.

#### City Square

Block 60, Lots 9 & 10; Block 69, Lots 1 & 2; Block 32, Lots 4 & 5; and that part of Chestnut Street Cemetery that is Block 31, Lots 6 & 7; and the Streets and Avenues owned by the City that fall in between these lots. NOTE: B-D has Square shown with alleys included, correct?

#### Franklin Square

Block 181, Lots 6 & 7; Block 182, Lots 9 & 10; Block 175, Lots 1 & 2; Block 176, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots.

#### Madison Square

Block 141, Lots 6 & 7; Block 142, Lots 9 & 10; Block 135, Lots 1 & 2; that part of Chapman High School that is Block 136, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots. NOTE: B-D shows Square with alleys included, correct?

#### Chapman Square

Block 55, Lots 6 & 7; Block 56, Lots 9 & 10; Block 95, Lots 1 & 2; Block 96, Lots 4 & 5; and the Streets and Avenues owned by the City that fall in between these lots.

#### Washington Square

Block 73, 80' of lots 1 and 10; Block 74, Lots 1-10; Block 79, Lots 1-10; Block 80, Lots 1-10

### Data and Analysis to Support Historic City Square Public Facilities Land Use sub-classification

*Excerpted in part, from the City of Apalachicola Historic Element, courtesy Willoughby Marshall and from the 2008 Project Riverway Report, produced by the University of Georgia Fanning Institute (Danny Bivens) and the Alliance for Quality Growth.*

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Historically, buildings were oriented toward these squares on all sides, but over time, this feature of the city's design was lost. Currently, only Trinity Episcopal Church at Gorrie Square upholds this part of the city's original plan. When roads were paved, they were paved directly through the center of the squares, dividing them into four separate corners. Because the square was no longer a complete whole, but instead fractured, may have contributed to the lack of new architecture fronting onto the square. According to the



Riverway Report, the network of streets and alleys surrounding each square suggests a plan similar to Savannah, GA squares for circulation of these spaces.

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Architect and local historic preservation expert Willoughby Marshall has drafted proposed historic square schematics identified in the document titled "Economic Development through Historic Preservation.

Additionally, the 2008 "Project Riverway Apalachicola" report, by the Fanning Institute also outlines several options for re-thinking and redesigning the city squares to better reflect the historic intent of the squares.

The Riverway report focused on City Square with two proposed redevelopment ideas – a "True Square" based on the template created by James Oglethorpe for Savannah, Georgia and a "Circle in the Square" that takes the most important element of the Oglethorpe square but allows more flexibility.

Deciding upon any redevelopment concept for the City's historic squares would depend on individual neighborhood needs, existing use and whether the long-term goal for the space would be used for active or passive recreation.

#### **Current and Proposed Land Use**

Each of the City's publically-owned City Squares are currently identified as public facilities in terms of land use. It is recommended that the City create a subcategory of public facilities to classify the City's squares as historic public squares with specific objectives and policies relating to their use.

#### **GOALS, OBJECTIVES AND POLICIES:**

**Goal:** Through its land use regulations, budget prioritization and administrative management, the City will restore its historic public squares to a more natural state by 2020.

**Objective:** The City will create historic square overlay boundaries and adopt as part of the city's land development regulations which will specifically identify allowable uses on such parcels including, but not limited to, open space and passive recreation.

**Policy:** The City will conduct an inventory of each of the City's historic squares and through the public participation process, develop a list of recommended use ideas for each of the City squares.

**Policy:** The City will develop specific development standards for the City's historic squares.

**Policy:** The City will not permit new buildings to be built on city-owned Historic City Squares.

**Objective:** Renovation/expansion of existing structures on City Squares will be designed to minimize footprint and maximize open space design in accordance with historic square public space intent.

**Policy:** All proposed renovation must be approved for historic compatibility by the City's Architectural Review Board.

Objective: The City shall include historic city square preservation in its grant seeking and visioning process.

Policy: The City shall include the historic city square design and planning when it seeks annual historic preservation grants.

Policy: The City shall seek state historic preservation technical guidance and financial assistance to redevelop the City's historic squares.

Policy: Through local historic and community organizations, the City will encourage the formation of volunteer teams to "adopt" city squares for the purpose of recommending design and improvements.

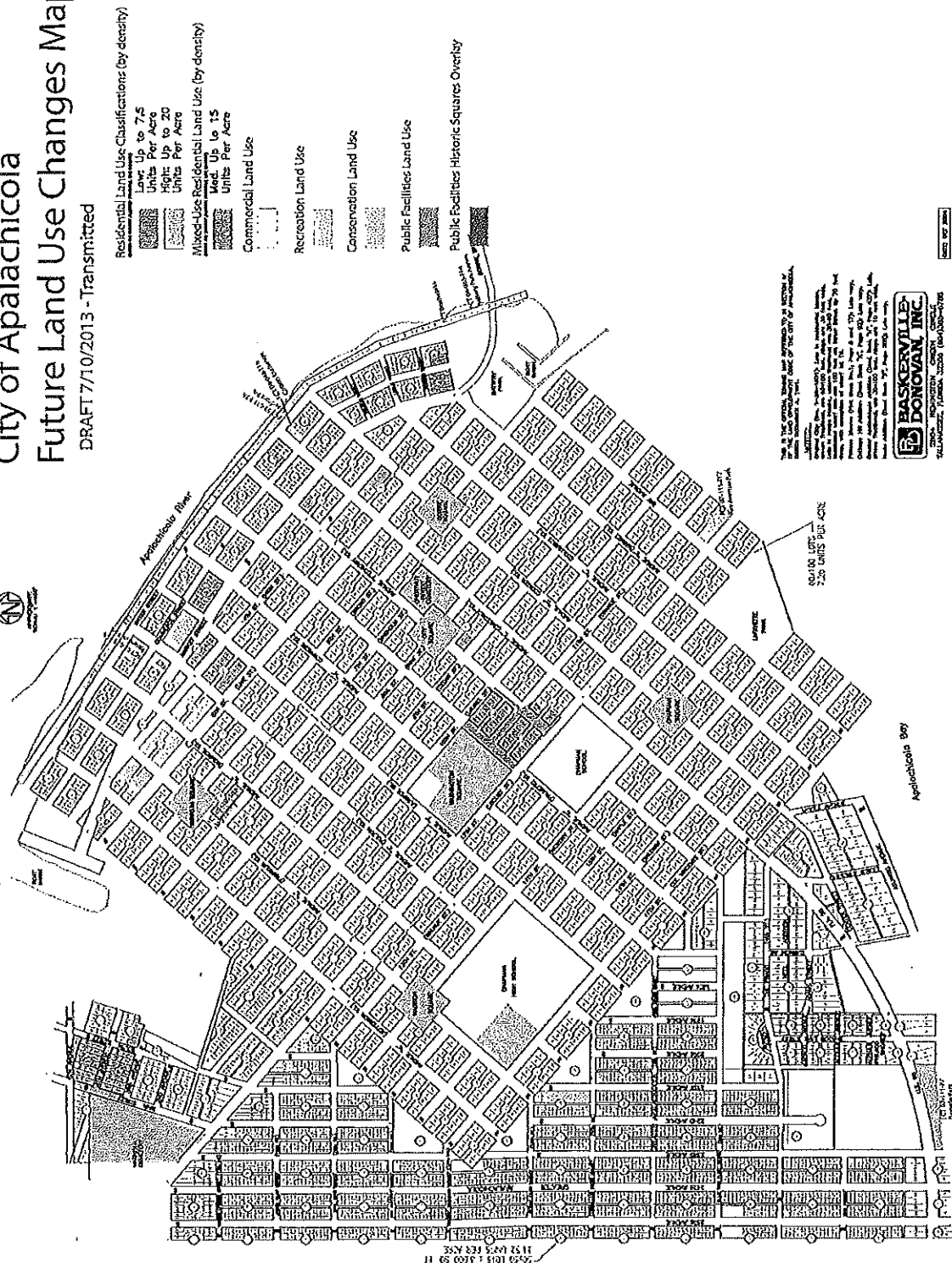
Policy: The City shall include historic city square improvements as part of its five year strategic planning document.

Policy: By 2015 the City will design appropriate informational signage and install at each City Square.

Attachment B-1

# City of Apalachicola Future Land Use Changes Map

DRAFT 7/10/2013 - Transmitted



- Residential Land Use Classifications (by density)**
- Low: Up to 7.5 Units Per Acre
  - High: Up to 20 Units Per Acre
  - Mixed-Use Residential Land Use (by density)
  - Med: Up to 15 Units Per Acre
- Commercial Land Use**
- Recreation Land Use**
- Conservation Land Use**
- Public Facilities Land Use**
- Public Facilities Historic Squares Overlay**

THIS IS THE OFFICIAL ZONING MAP APPROVED BY THE BOARD OF APALACHICOLA, FLORIDA, AND IS THE OFFICIAL ZONING MAP OF THE CITY OF APALACHICOLA, FLORIDA. ANY CHANGES TO THIS MAP MUST BE APPROVED BY THE BOARD OF APALACHICOLA, FLORIDA. THIS MAP IS THE PROPERTY OF BASKERVILLE-DONOVAN, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BASKERVILLE-DONOVAN, INC.

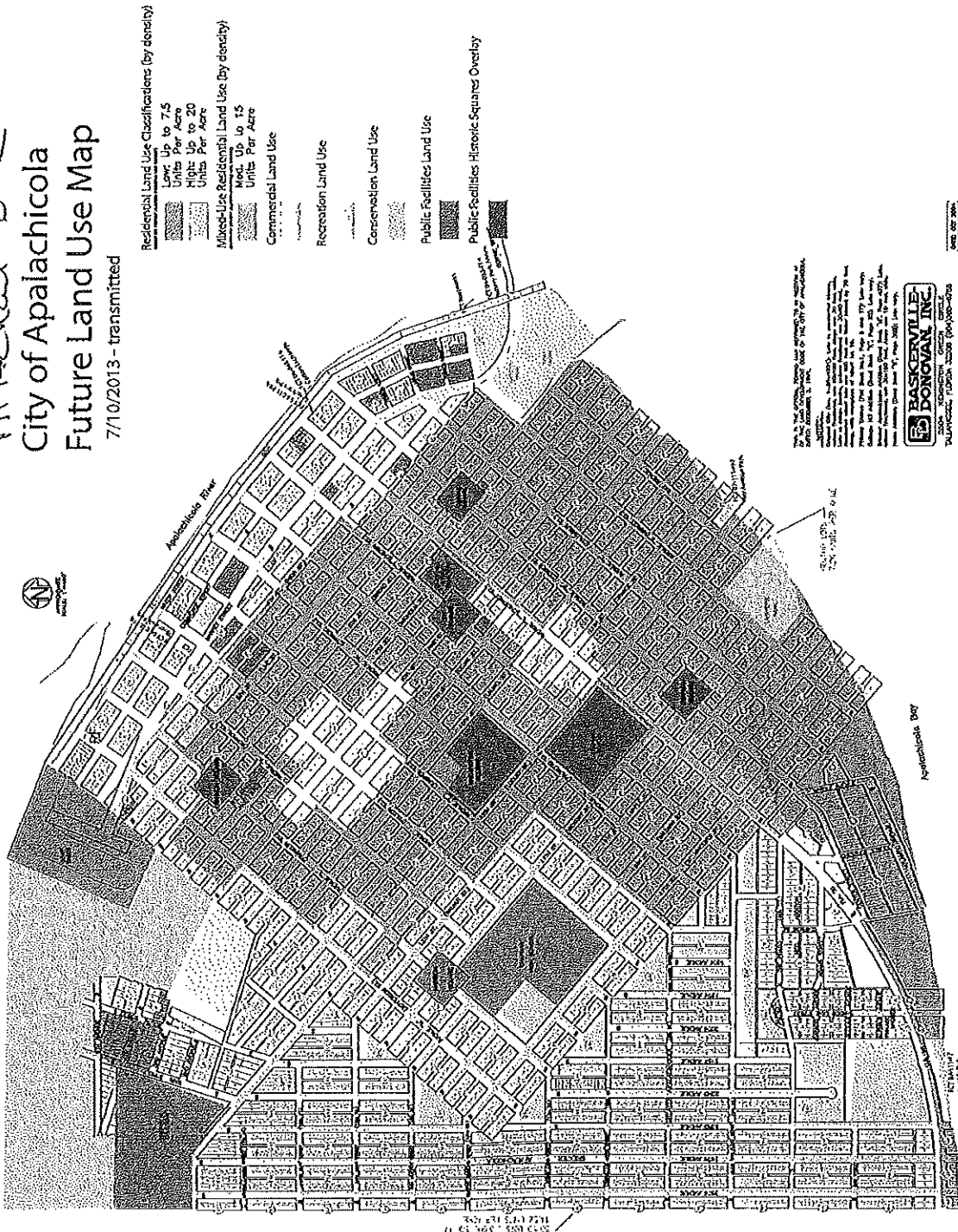
**BASKERVILLE-DONOVAN, INC.**  
PLANNING ENGINEERS  
11500 W. UNIVERSITY BLVD., SUITE 100  
FORT WORTH, TEXAS 76150-1000  
TEL: 817.335.1111 FAX: 817.335.1112

# Attachment B-2

## City of Apalachicola

### Future Land Use Map

7/10/2013 - transmitted

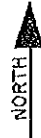
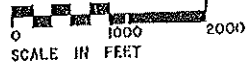


- Residential Land Use Classifications (by density)**
- Low: Up to 7.5 Units Per Acre
  - Med: 7.5 to 15 Units Per Acre
  - High: 15 to 20 Units Per Acre
- Mixed-Use Residential Land Use (by density)**
- Med: Up to 15 Units Per Acre
- Commercial Land Use**
- General Commercial
  - Neighborhood Commercial
- Recreation Land Use**
- Community Park
  - Neighborhood Park
- Conservation Land Use**
- Conservation
- Public Facilities Land Use**
- Public Facilities
- Public Facilities Historic Squares Overlay**
- Historic Squares Overlay

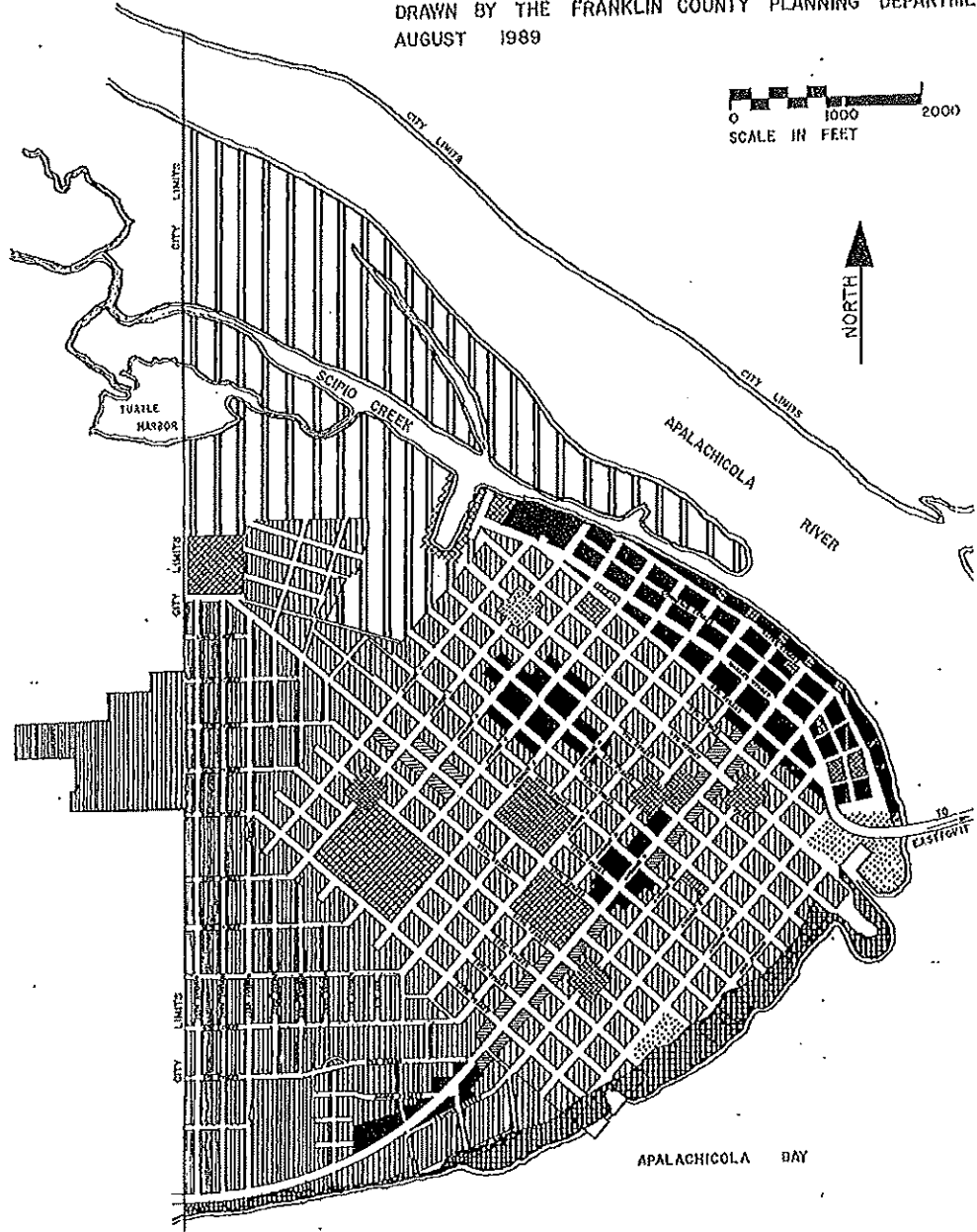
THIS IS THE OFFICIAL FUTURE LAND USE MAP OF THE CITY OF APALACHICOLA, FLORIDA. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS DETERMINED THAT IT COMPLIES WITH THE APALACHICOLA ZONING ORDINANCE. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE MAP AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN HEREON. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE MAP AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN HEREON.

**BASKERVILLE DORVAN, INC.**  
 10000 BASKERVILLE DRIVE, SUITE 100  
 JACKSONVILLE, FLORIDA 32216  
 TEL: 904.731.2211  
 FAX: 904.731.2211

CITY OF APALACHICOLA  
 DRAWN BY THE FRANKLIN COUNTY PLANNING DEPARTMENT  
 AUGUST 1989



Attachment B-3

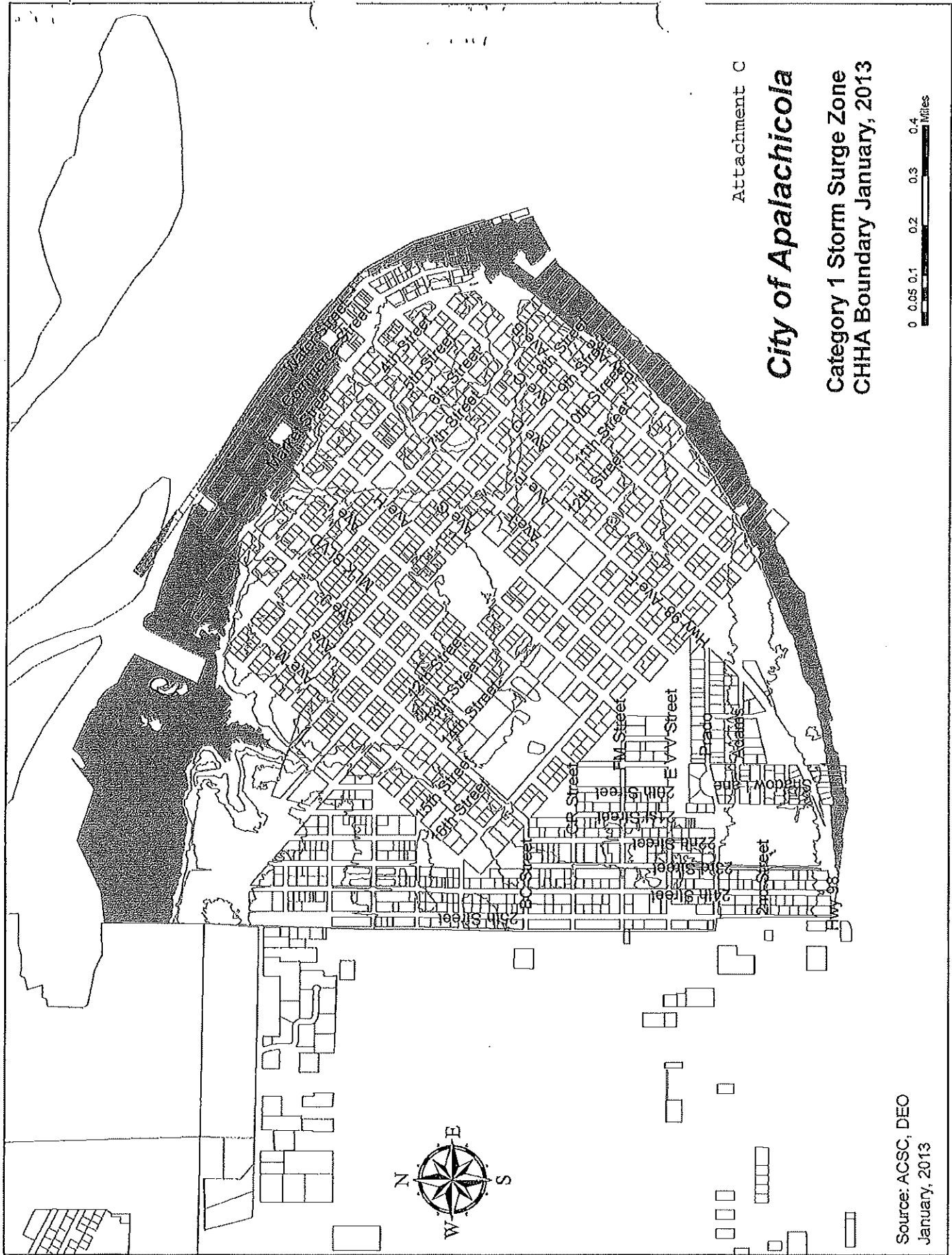


TIME FRAME - All changes from existing land uses to be accomplished during 1990 and continue through year 2000 unless conditions change.

MAP F1  
 FUTURE LAND USE

LEGEND

- |  |                       |  |              |
|--|-----------------------|--|--------------|
|  | RESIDENTIAL           |  | PUBLIC       |
|  | RESIDENTIAL MIXED USE |  | RECREATIONAL |
|  | COMMERCIAL            |  | CONSERVATION |
|  | BAY TIDAL MARSHES     |  |              |



Attachment C

# City of Apalachicola

Category 1 Storm Surge Zone  
CHHA Boundary January, 2013



Source: ACSC, DEO  
January, 2013

**Ron DeSantis**  
GOVERNOR



**Ken Lawson**  
EXECUTIVE DIRECTOR

January 23, 2019

Mr. Ron Nalley  
City Manager  
City of Apalachicola  
192 Coash Wagoner Boulevard  
Apalachicola, Florida 32320

RE: Apalachicola Evaluation and Appraisal Notification Letter

Dear Mr. Nalley:

This is to acknowledge receipt of your Evaluation and Appraisal Notification Letter which was due on February 1, 2019, and received by the Department on January 23, 2019.

Please note that your proposed comprehensive plan amendments based on your Evaluation and Appraisal should be transmitted to the Department by January 23, 2020, within one year of your notification, pursuant to Section 163.3191(2), Florida Statutes. The amendments are subject to the State Coordinated Review Process as outlined in Section 163.3184(4), Florida Statutes.

Ms. Sherry Spires of the Department's staff is available to assist and provide technical guidance to your questions concerning the contents of the Evaluation and Appraisal based comprehensive plan amendments and may be reached at (850) 717-8499.

If you have any questions concerning the processing of the Evaluation and Appraisal based amendments, please contact Mr. Ray Eubanks, Plan Processing Administrator, at (850) 717-8483.

Sincerely,

D. Ray Eubanks  
Plan Processing Administrator

DRE/me

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](https://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](https://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

# CITY OF APALACHICOLA

192 Coach Wagoner Boulevard . Apalachicola, Florida 32320 . 850-653-9319 . Fax 850-653-2205  
www.cityofapalachicola.com

JAN 16 2019

Mayor  
Van W. Johnson, Sr.

January 16, 2019

Commissioners  
Brenda Ash  
John M. Bartley, Sr.  
James L. Elliott  
Anita Grove

D. Ray Eubanks  
Plan Processing Administrator  
Department of Economic Opportunity  
Caldwell Building  
107 E. Madison Street - MSC 160  
Tallahassee, FL 32399-4120

City Manager  
Ron Nalley

Re: Apalachicola Evaluation and Appraisal Letter

City Administrator  
Lee H. Mathes, MMC

Dear Mr. Eubanks:

City Clerk  
Deborah Guillotte, CMC

In accordance with the requirements of Section 163.3191, Florida Statutes (F.S.) and the Evaluation and Appraisal Notification Schedule, the City of Apalachicola is submitting the required notification Evaluation and Appraisal letter due February 1, 2019.

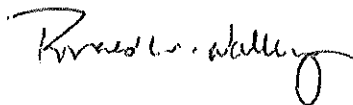
City Attorney  
J. Patrick Floyd

The City has evaluated its Comprehensive Plan and determined that amendments are necessary to reflect changes in state requirements and changes in local conditions. As required by Section 163.3191(2), F.S. the City understand that the necessary amendments to the comprehensive Plan must be prepared and transmitted to the state land planning agency within one year, which is by January 31, 2020.

The City's preliminary evaluation indicates that the Coastal Management element will need amendments to comply with state requirements (Section 163.3178) relating to reducing coastal flood risk and the related impacts of sea level rise.

If you have any questions or comments, please feel free to contact me.

Sincerely,



Ron Nalley  
City Manager

Cc: Barbara Powell, Areas of Critical State Concern Administrator



# DRAFT

## CITY OF APALACHICOLA

### ORDINANCE 2021-03

AN ORDINANCE AMENDING CODE OF ORDINANCES CITY OF APALACHICOLA FLORIDA REVISING PART II - CODE, SUBPART B - LAND DEVELOPMENT CODE, CHAPTER 111 - LAND USE, ARTICLE III - ZONING, DIVISION 2 ZONING DISTRICTS, ADDING SEC. 111-251 RELATING TO PROJECTIONS INTO SETBACK AREAS WITHIN THE FOLLOWING ZONES: R-1 SINGLE FAMILY RESIDENTIAL, R-2 MULTI-FAMILY RESIDENTIAL, R-3 MOBILE HOME RESIDENTIAL, R-4 MIXED USE RESIDENTIAL, O/R OFFICE RESIDENTIAL, C-1 GENERAL COMMERCIAL, C-2 NEIGHBORHOOD COMMERCIAL, C-3 HIGHWAY COMMERCIAL, C-4 RIVERFRONT COMMERCIAL, RF RIVERFRONT, AND R/C RESEARCH CONSERVATION; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, under the current rules and regulation of the Land Development Code, the City Commission deems it necessary and important to update the Land Development Code (hereinafter, "LDC") to make provision for allowable projections within the setback areas : and,

WHEREAS, after public workshops and obtaining citizen input, the Apalachicola Planning and Zoning Board and the Apalachicola City Commission deems it necessary to revise the above referenced ordinance.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THE FOLLOWING REVISIONS RELATING TO THE ABOVE REFERENCED ORDINANCE.

CODE OF ORDINANCES CITY OF APALACHICOLA FLORIDA

PART II - CODE

SUBPART B - LAND DEVELOPMENT CODE

CHAPTER III - LAND USE

ARTICLE III - ZONING

DIVISION 2 ZONING DISTRICTS

Addition of new Sec. 111-251. PROJECTIONS INTO SET BACK AREAS

A. Planting of vegetation in Set Back Areas:

- (1) No trees may be planted within any utility easement unless approved by the City and the owner of the easement. Nothing in this section shall be construed to prohibit the planting of low-growth Landscaping in the Set Back Areas. Landscaping within the Set Back Areas is subject to removal by the City without notice in the event that the Landscaping impedes access to Easement and/or Set Back Areas. The City shall not be responsible for damage to Landscaping removed from within an Easement or Set Back Area.
- (2) Prior to planting of low-growth Landscaping in Easement or Set Back Areas, a Landscaping plan shall be provided to the City for review.
- (3) Prior to planting of low-growth Landscaping in Easement or Set Back Areas, the Owner shall execute a Permission for Removal, Release and Indemnification Agreement, in a form acceptable to the City, pertaining to low-growth Landscaping in Easement or Set Back Areas.

# DRAFT

B. Pervious parking, driveway and pathways:

- (1) Pervious parking, driveway and pathways may be installed within no greater than \_\_\_\_ percent of the Set Back Area and is subject to removal by the City without notice in the event that the City requires access to the area.
- (2) Prior to installing pervious parking, driveway and pathways in Easement or Set Back Areas, a site improvement plan shall be provided to the City for review.
- (3) Prior to installing a pervious parking, driveway or pathway in the Set Back Area, the Owner shall execute a Permission for Removal, Release and Indemnification Agreement, in for acceptable to the City, pertaining to pervious parking, driveway and pathways in Easement or Set Back Areas.

C. Architectural features: No main walls of any Building shall encroach on the Set Back areas, but architectural features such as canopies, bay windows, gutters, pilasters, cantilever slab projections (open balconies), cornices, eaves and similar features may project into the side and rear Set Backs subject to the following:

- (1) Balconies and other ornamental architectural features above the first story may be extended not more than four feet into the Set Back and there shall be not less than ten feet of clear headroom under the lowest such projection.
- (2) A cantilevered slab projection may project over a driveway towards one vehicular right-of-way provided that the projection extends no more than five feet into a Set Back; no part of the projection is closer than \_\_\_\_ feet to any platted lot lines adjacent to any vehicular right-of-way; and architectural features or supporting structures such as columns or poles are not placed under the portion of the projection that extends into the setback.

D. Terraces: Open terraces projecting into front and side Set Backs shall not exceed, in height, three feet six inches above the grade of the center of the street.

E. Mechanical equipment: Mechanical equipment shall not be placed in required Set Backs.

F. Balconies: Balconies located on the front or rear façade may not extend more than three feet into the Set Back. Balconies located on a side façade may not extend beyond the face of the exterior wall of the building from which they project. Balconies must be accessed from the interior of the building from which they project. Balconies facing a lot line abutting another residential property may also be accessed from an exterior staircase, provided the staircase does not encroach in any Set Back.

This Ordinance was read and adopted on \_\_\_\_\_. Motion to adopt Ordinance made by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_.

Voting AYE:

Voting NAY:

ATTEST:

FOR THE CITY COMMISSION OF THE  
CITY OF APALACHICOLA

\_\_\_\_\_  
Kevin Begos, Mayor

---

Deborah Guillotte, City Clerk

CITY OF APALACHICOLA  
ORDINANCE 2021-\_\_

AN ORDINANCE AMENDING CODE OF ORDINANCES CITY OF APALACHICOLA FLORIDA AMENDEDING CHAPTERS 101 AND 111 OF THE CITY OF APLACHICOLA LAND DEVELOPMENT CODE, AMENDING SECTION 101-8 DEFINITIONS; AMENDING SECTION 111-250 RELATING TO RULES FOR INTERPRETING BOUNDARIES; ADDING SECTION 111-251 RELATING TO ENCROACHMENTS; ADDING SEC. 111-252 RELATING TO VACATING A PUBLIC RIGHT OF WAY; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND ESTABLISING AN EFFECCTIVE DATE.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, as follows:

**SECTION 1.** Section 101-8, Definitions of Article I of the Land Development Code is amended to revise and add the following definitions in alphabetical order:

*Encroach.* The term "encroach" means to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, into the public right-of-way, or above a height limit.

*Encroachment.* The term "encroachment" means any structural element that breaks the plane of a vertical or horizontal regulatory limit extending into a setback, into the public right-of-way, or above a height limit.

*Encroachment (flood hazard area)* the placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**SECTION 2.** Section 111-250, Rules for interpreting boundaries, of Article III – Zoning, of the Land Development Code is amended as follows:

(6) It is the policy of the City that real property owned by the City that constitute streets, alleys, squares, parks or other public right-of-way, shall be preserved by the City for the benefit of the public, so as to promote the ease of providing municipal, utility, and public safety services to the public, to preserve the plat of the Historic District as it was established in 1836, and to promote the public welfare of its citizens.

**SECTION 3.** Article III – Zoning, of the Land Development Code is amended to add Section 111-251 – Encroachments, as follows:

Sec. 111-251. – Encroachments.

(1) No development, improvement, wall, fence, or permanent structure shall encroach on the setbacks or public right-of-way including streets, alleys, squares, parks, or

other public right-of-way without a permit granted by the City Commission as provided herein.

- (2) No permit for encroachment onto any real property owned by the City, including but not limited to streets, alleys, squares, parks, or other public right-of-way, shall be issued for the encroachment of a wall, fence or permanent structure not in existence on the effective date of this ordinance. No permit for the expansion of a wall, fence, or permanent structure in existence on the effective date of this ordinance that would expand an existing encroachment, whether or not supported by an encroachment agreement, onto any real property owned by the City, including but not limited to streets, alleys, squares, parks, or other public right-of-way, shall be issued for a permanent structure in existence on the effective date of this ordinance.
- (3) In zoning districts R-1, R-2, and O/R, application may be made for driveways to continue over a public right-of-way to access the alley abutting the lot of the applicant. Application shall be made on forms designated by the City. The portion of the driveway established on the public right-of-way shall be constructed of permeable material. The applicant shall be informed, and if the application is approved, the encroachment agreement shall state, that any portion of the driveway on the public right-of-way may be removed by the City without notice or recompense, if necessary, for the ease and provision of municipal, utility, or public safety benefits. If approved, the applicant shall undertake to maintain the driveway on the public right-of-way in accordance with the plan submitted and approved.

**SECTION 4.** Article III – Zoning, of the Land Development Code is amended to add Section 111-252 – Vacating a Public Right-of-Way, as follows:

Sec. 111-251. – Vacating a Public Right-of-Way.

- (4) (a) Any public right of way, not included in the Historic Plat of 1836, may be vacated by four affirmative votes of the City Commission, after due public notice, and the following determinations:
  - (1) the proposed vacation is not detrimental to the public interest and there is a public benefit to the vacation;
  - (2) the proposed vacation would not have a detrimental impact on the provision of municipal, utility, or public safety services to the general public;
  - (3) the proposed vacation is consistent with the current and reasonably foreseeable future traffic circulation needs as stated in the City's Comprehensive Land Use Plan;
  - (4) the proposed vacation would not preclude adequate legal access to all properties, and access to no property would be by easement alone;
  - (5) all abutting property owners provide written consent to the proposed vacation; and

(6) the City will receive fair market value for the vacated property, absent compelling circumstances that would preclude payment on that basis.

(b) Vacation of a public right-of-way may be initiated by the City Commission, or by application on forms designated by the City, and payment of an application fee as determined by City resolution. The application shall be reviewed by the Building Inspector, City Planner, and the Planning and Zoning Board and shall be forwarded with their recommendation to the City Commission for final action. The findings required by Subsection (a) shall be reduced to writing and presented to the Commission by the City Attorney prior to final action by the Commission.

# Hopping Green & Sams

Attorneys and Counselors

February 26, 2021

## *VIA ELECTRONIC MAIL*

Mayor Kevin Begos  
[kbegos@cityofapalachicola.com](mailto:kbegos@cityofapalachicola.com)

Commissioner Despina George  
[dgeorge@cityofapalachicola.com](mailto:dgeorge@cityofapalachicola.com)

Commissioner Adriane Elliott  
[aelliott@cityofapalachicola.com](mailto:aelliott@cityofapalachicola.com)

Commissioner Anita Grove  
[agrove@cityofapalachicola.com](mailto:agrove@cityofapalachicola.com)

Mayor Pro-Tem/Commissioner Brenda Ash  
[bash@cityofapalachicola.com](mailto:bash@cityofapalachicola.com)

City of Apalachicola  
192 Coach Wagoner Boulevard  
Apalachicola, Florida 32320

## **Re: Encroachment Policy and Ordinance**

Dear Mr. Mayor and Commissioners:

At the February 2, 2021 City Commission meeting, the former City Attorney presented an item to "Initiate discussion on items desirable to be included as options available for encroachments into the City Right-of-Way." This item included a preliminary draft ordinance, and two versions of a draft agreement.

During the discussion, Mayor Begos reminded the Commission that the Historic Apalachicola Foundation asked to participate in any process to amend the land development code encroachment policies. We appreciate that invitation and look forward to working with the City on this issue.

Over the past few weeks, a small team of attorneys consisting of myself, Bonnie Davis with the Historic Apalachicola Plat Preservation Initiative, Inc. (HAPPI), John Marshall, professor of land use law at Georgia State University College of Law, and John Alber have worked on this issue. This letter and the attached proposals represent our findings and initial recommendations.

We analyzed policies in other historic cities including New Orleans, Savannah, Pensacola, St. Augustine, and Fernandina Beach. We also considered the existing ordinances of Apalachicola. Our proposed ordinance and the explanation in the attached memorandum draw upon the experiences of other cities and are tailored to the specific conditions and needs of Apalachicola.

We ask that you consider the attached explanation and proposed ordinance. We also ask that if the Commission decides to move forward, that you initiate the process for amending the Land Development Code per the City of Apalachicola Operations and Procedures Manual, Policy No. 002. That procedure includes workshops, review by the Planning and Zoning Board, and ultimately an ordinance proposed for adoption by the City Commission.

Through the process the City will gather citizen input, work with stakeholders, analyze appropriate policies, and ultimately develop a land development code policy that benefits all citizens of Apalachicola.

## **Recommendation**

Initiate the text amendment process to the Apalachicola Land Development Code regarding encroachments. Instruct the Planning and Zoning Board to begin public workshops on the proposed amendment in accordance with Operations and Procedures Manual, Policy No. 002.


**Process for Amendment to the Apalachicola Land Development Code**

According to the City of Apalachicola Operations and Procedures Manual, Policy No. 002: Comprehensive Plan and Land Development Code Amendment Procedure, the City shall follow these steps to review and adopt the proposed ordinance:

1. The Planning and Zoning Board shall hold a minimum of public workshops to present and discuss proposed amendments.
2. The Planning and Zoning Board shall, during a scheduled regular meeting, initiate a proposed amendment, transmitting the draft ordinance to the City Attorney, City Administrator and Building Department Official for legal and administrative review.
3. City Attorney, City Administrator, and Building Department Official shall review proposed amendment and submit written comments within 10 days to Planning and Zoning Board.
4. Planning and Zoning Board shall, at a duly noticed regular meeting, consider legal and administrative comments on the proposed amendment and transmit the proposed amendments to the City Commission.
5. City Commission and Planning and Zoning Board shall hold a joint workshop on the proposed amendment (a quorum of attendance by boards shall be present, along with the City Attorney, City Administrator and Building Department Official).
6. Upon agreement by both Boards on proposed amendment, City Commission shall proceed with adoption procedures, which at a minimum, consist of two readings during a scheduled regular meeting and an advertised public hearing in a local paper prior to the second reading and adoption decision. Florida Administrative Code procedures requiring additional adoption advertisements and/or public hearings shall apply, when applicable

Again, on behalf of the Historic Apalachicola Foundation, I thank you for the offer to participate in this process. Please do not hesitate to contact me if you have any questions regarding this letter or the attached proposals. With kind regards, I remain

Sincerely,



Robert Volpe  
*Counsel for the Historic Apalachicola Foundation, Inc.*

cc: Travis Wade, City Manager  
Bonnie Davis  
John Alber  
John Marshall  
Marie Marshall

Enclosures:

1. Memorandum regarding encroachments
2. Draft Ordinance



## MEMORANDUM

To: Honorable Mayor Begos  
Apalachicola City Commissioners

From: Historic Apalachicola Plat Preservation, Inc. (HAPPI)  
Historic Apalachicola Foundation, Inc. (HAF)

Date: February 26, 2021

Re: Encroachment Policy and Ordinance

---

At the February 2, 2021 City Commission meeting, the City Commission heard an agenda item regarding a draft ordinance to establish permissible encroachments into City right-of-way. Although this proposal has not yet formally been initiated, we believe it is important to provide perspective on this issue. We applaud the City's efforts to address issues in the community and to hear from community stakeholders on those issues. This memorandum provides context to the issue of encroachments into setback requirements and public rights-of-way.

The recommendations in this memo are based on a review of the current Apalachicola Land Development Code and similar provisions in the municipal codes of Fernandina Beach; St. Augustine; Gainesville; Savannah, Georgia; and New Orleans, Louisiana.

### **Summary of Recommendations**

In general, we recommend that the City's policy on encroachments be clarified and written as a source of information to residents and business owners and as a guide to the principles that would govern future changes to it. Specifically, we recommend:

1. The City continue its present policy of prohibiting encroachments on public streets, alleys and ROWs, except by special permit granted by the City Commission on a case-by case-basis. Emphasis should be placed on preserving access for municipal uses, for public egress, and for historic preservation of the City's visual landscape.
2. The City affirm its policy that no privately owned new permanent structures be permitted to encroach on publicly owned property. The appropriate remedy in such a case would be by a vacation of the property by the City and sale to the private party, based on a determination that the public interest warranted the transaction.
3. The City adopt an ordinance related to the vacation and sale of public streets, alleys, and ROWs that contain standards for taking such action, and the process by which it is accomplished. The ordinance should require a case specific determination that there is a public benefit in relinquishing public ownership to a private party.
4. Nothing in the public record suggests that there is a public policy reason to allow an existing non-conforming permanent structure to expand its footprint on public property by an encroachment agreement. Current city law prohibits such expansion. If the City finds there is a public interest in allowing the expansion of a non-conforming structure, the

existing ordinance on nonconforming structures should be amended, and the appropriate mechanism would be a vacation of the public ROW and sale to the private owner.

5. No changes are recommended to the types of encroachment permitted in the downtown commercial area as described in Chapter 36 of the Apalachicola Code of Ordinances.
6. Passive encroachments, landscaping and permeable driveways, should be allowed in residential zones of the City so long as the passive encroachments promote visual enhancement, and care and maintenance, while preserving access for municipal uses, and public access and egress to these areas.
7. Make clear to landowners that landscaping and permeable driveways preserve public access for municipal uses and any landscaping or driveway can be removed, without recourse or compensation, if needed to preserve access for municipal services.
8. Any structure or other type of noncompliance with the set-back requirements of the Land Development Code should be handled through the existing ordinance providing for a variance. Any change to what is permissible within the lot lines of private property should be made as an adjustment to the set-back requirements of a particular zoning district, rather than as a change to the current standards for granting a variance or mischaracterization as an encroachment, as those terms are defined in the Apalachicola Land Development Code.

### **Discussion**

Encroachments onto publicly owned lands (usually streets and alleys and the land on each side, often referred to as the right-of-way) is one part of a larger plan of land development regulation. Apalachicola has a comprehensive regulatory plan of land development. Changes to one part of the City's Land Use Code needs to be carefully considered for its impact on other aspects of Apalachicola's regulatory plan so that unintended consequences or contradictions are avoided.

"Encroachments" occur when any type of improvements intrudes beyond any legal boundary. This can violate a land development requirement like a setback, or violate a neighboring property right such as a structure projecting into the public right of way or onto a neighboring property. Encroachment generally should be prohibited except under limited circumstances.

Definition of terms is important to a consideration of this topic, particularly in comparison to the codes of other municipalities. As used in most codes, and specifically in Apalachicola, encroachment refers to an intrusion of buildings, fences, drives, etc. beyond the property lines of one owner onto property owned by someone else. When the encroachment is on public property, the governing body, in this case the city of Apalachicola, may either force its removal or grant permission, subject to any conditions it deems appropriate, for the encroachment. From time to time the City has permitted encroachments onto public property, always requiring an encroachment agreement with the person seeking the encroachment.

The Apalachicola Land Use Code also establishes set-back requirements for each zoning district. The set-back requirement is the minimum distance a building must be constructed from the property lines of the lot. Thus, it refers to what an owner can do within the boundaries of a private lot.

The City should affirm its current policy that **prohibits encroachments except by special permit**. There are valid public policy reasons to protect public ownership of public land. Public ownership preserves public access and egress, reserves public land for municipal uses and provision of services, and it preserves the historic visual landscape. These policy goals can be found in the Land Use Element<sup>1</sup> and the Historic Preservation Element of the City's Comprehensive Plan.<sup>2</sup>

There are some instances where **non-permanent encroachments can provide a public benefit** either by enhancing public use or improvement of public land and in those cases the City should develop and implement a written policy or ordinance setting forth specific guidelines for granting an encroachment that requires an encroachment agreement that is specifically tailored to each case.

In the downtown commercial zone where there are no or minimal set-back requirements and the City already closely regulates encroachments related to commercial activity, no changes to the current ordinance are recommended. In the residential areas where each zoning district does have set-back requirements, the City should adopt an ordinance that allows only passive encroachments, landscaping and permeable driveways. Enhancing the beauty of public spaces and care and maintenance of them while preserving public access is a public good.

The City should **prohibit construction of any new or expansion of any current permanent structure as an encroachment on public land**. The very practical reason for this is that once built it will be very difficult for the City to ever retrieve the public land upon which a permanent structure is erected at private expense. If there is a public policy reason to allow a permanent structure to be built or expanded such that it would constitute an encroachment, the better course of action would be for the City to **vacate the land and sell it to the private property owner**. This would obviate murky questions of liability, simplify enforcement, and lay to rest questions of whether subsequent owners have the right to continue the encroachment. The City does not have an ordinance that deals with vacations or abandonment of public real estate. In the past the City has followed a Florida statute that prescribes the procedure that a county must follow in vacating public property, but this does not specifically apply to municipalities. We recommend that an **ordinance setting forth the criteria for vacation and the procedure to be followed be considered for adoption**.

Limiting encroachment by permit in residential areas to landscaping and permeable driveways is another aspect of the same issue. If decks, terraces, etc. are permitted to encroach, the private owner is likely to want to exclude members of the public from using them. Yet there is no public interest in giving private owners the right to exclude the public from public land. Not allowing new decks and terraces would also eliminate issues related to liability. On the other hand, landscaping enhances public land, and driveways do not impede public egress over them. It is important to require permeability of any hardscaping as otherwise the City's flood plain management profile may be altered.

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<sup>1</sup> The Land Use Element of the Comprehensive Plan subsumes "roads and alleys" within the city's public facilities land use category. This particular land use category is intended to provide for the health, safety, and well being of the residents of Franklin County through adequate provision . . . of public facilities." Policy 2(f)

<sup>2</sup> The Historic Preservation of the Comprehensive Plan establishes as a goal the "[r]estoration of the concept of the squares and strengthening of the pattern they create within the city layout should occur concurrently." (p. 17).

### **Encroachments and Set-back Requirements**

The relationship between encroachments and set-back requirements is important to understand and is best explained by examples in Apalachicola. In the downtown business district of Apalachicola there are minimal, if any, set-back requirements. Buildings are edged by public sidewalks and there is little or no space between them on the sides and there are no alleys. In areas like this, with minimal or zero set-back requirements, any projection of a building or other type of property is an encroachment. Apalachicola's current Code provisions closely regulate the types of encroachments permitted in the downtown commercial area. One can see examples of the types of encroachment permitted in the downtown area in the dining tables and chairs outside restaurants and in the High Cotton building with a balcony protruding over the sidewalk below.

However, in Apalachicola's residential districts there are set-back requirements that apply to all sides of the lot. Before a building or architectural feature can encroach it would have to overtake the set-back requirement. This would require an application for a variance. The City's Land Development Code has well established definitions for determining the circumstances in which a variance can be granted as well as the circumstances that must be shown by a private owner in order for a variance to be granted. The regulatory scheme for variances is substantively identical in all of the cities we reviewed. There is also a substantial body of judicial case law that is consistent with the current Code. Therefore, we recommend that the term encroachment not be applied to what is a variance in zoning districts with established set-back requirements. If the City determines that there should be an adjustment to what is allowed in the residential areas, the better way to accomplish that would be to adjust the set-back standards for new construction specific to those zoning districts.

There are buildings throughout the City that do not conform to the current set-back requirements of the Land Development Code. These are defined in the Code as nonconforming structures. A nonconforming structure can be either an historic building or a non-historic building. If such buildings were in existence before the Code was adopted in 1991, they are allowed to continue to exist, but they cannot be expanded unless current Code standards are met or a variance is granted. The policy goal is that non-conforming, non-historic structures will be gradually phased out. If the City finds there is a public interest in allowing the expansion of a non-conforming structure to expand, the existing ordinance on nonconforming structures should be amended, and the appropriate mechanism would be a vacation of the public ROW and sale to the private owner.

There is an additional important consideration in this context. Any change to the set-back requirements should apply to conforming structures only – that is to structures in compliance with the modified set-back requirements. Adjustments that do not recognize this point would require a change to the non-conforming ordinance and to the policy underlying that ordinance as well.

### **Treatment in Similar Cities**

Other jurisdictions have substantially similar provisions to the ones recommended here. In general terms they all closely regulate the types of encroachments and activities that can be permitted in

the core commercial areas. Decisions that affect their historic areas are subject to review and approval by historic preservation boards. In New Orleans, St. Augustine, and Savannah decisions on encroachments and variances are often split between, or reviewed by, more than one board. These large municipalities and Gainesville all have large planning and enforcement staffs and for this reason Apalachicola may wish to adopt a more simplified approach, but the need for at least some professional review by a credentialed planner is crucial, even for small towns. The Fernandina Beach ordinance is instructive in this regard. The standard for granting variances is substantively identical across all of the jurisdictions, as is the requirement of finding a public benefit or at least a lack of public harm in vacating public land or granting an encroachment.

The New Orleans Zoning Code has a district that encompasses the French Quarter and adjoining historic neighborhoods, where both businesses and homes are historically built to the edge of the public street and there is little or no space between them, that is little or no set-back requirements. In that specific district new construction is encouraged to encroach with above ground balconies, galleries, and street level stoops. The stated purpose of encouraging new construction to incorporate these architectural elements is that they have historically been a defining feature of the historic visual landscape in that area. These provisions are not city-wide in scope, however, and in less densely populated residential areas one finds set-back requirements similar to other cities.

## **ARTICLE II. TREE PROTECTION<sup>1</sup>**

### **Sec. 105-21. Purpose and intent.**

- (a) Trees are recognized to be a valued asset, providing a healthier and more beautiful environment in which to live. Tree preservation enhances the value and marketability of property and thereby promotes the stability of residential neighborhoods, making them more livable and desirable.
- (b) This article establishes protective regulations for tree preservation and a permitting process to ensure good management practices on private and city-owned property, including utility easements for continued healthy and beautiful trees.

(LDC, art. XII, § I; Ord. No. 2011-01, § I, 2-8-2011)

### **Sec. 105-22. Definitions.**

*Tree.* A woody plant having one or more well-defined trunks capable of being maintained with a clear trunk and normally growing to an overall height at maturity of a minimum of 15 feet.

*Diameter at breast height.* The diameter of a tree trunk as measured four and a half (4 ½) feet above ground level.

*Drip line.* The limiting line established by a series of perpendicular drop points marking the maximum radius of the crown of an existing tree, but not less than ten feet from the trunk, whichever is greater.

*Patriarch tree.* A protected native tree (section 105-23) whose trunk is 35 or more inches in diameter at breast height.

*Relocate.* As used in article II, tree protection regulations and elsewhere in this Code, the digging up of a protected tree by a property owner from a place on the owner's property and the planting of the same tree in another place on the same property or in a public place.

*Substantial alteration.* The heavy cutting of top branches (topping), cutting of major lower limbs (elevating), or significant trimming of a tree that alters the natural symmetry of the tree. The term does not include customarily accepted practices used by certified arborists for pruning shade trees.

(Ord. No. 2018-07, § I, 2-5-2019)

### **Sec. 105-23. Protected native trees.**

The native trees predominately foresting the City of Apalachicola are:

Bald and pond cypress (*Taxodium distichum* and *Taxodium ascendens*),

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<sup>1</sup>Editor's note(s)—Ord. No. 2018-07, § I, adopted February 5, 2019, amended art. II in its entirety, with the exception of § 105-21, purpose and intent, to read as herein set out. Former art. II, §§ 105-22—105-30, pertained to tree protection and preservation, and derived from LDC, art. XII, §§ II—X; Ord. No. 2011-01, §§ II—X, 2-8-2011.

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Eastern and southern redcedar (*Juniperus virginiana* and *Juniperus solidicola*),  
Live oak (*Quercus virginiana*),  
Longleaf pine (*Pinus palustris*),  
Pecan (*Carya illinoensis*),  
Sabal (cabbage) palm (*Sabal palmetto*),  
Slash pine (*Pinus elliotii*),  
Southern magnolia (*Magnolia grandiflora*),  
Sycamore (*Platanus occidentalis*), and  
Water oak (*Quercus nigra*).

Individual trees of these species having diameters of four or more inches at breast height are protected (hereinafter referred to as "protected trees"). Other native trees and all nonnative trees are not protected.

( Ord. No. 2018-07 , § I, 2-5-2019)

#### **Sec. 105-24. Preservation of patriarch trees.**

No patriarch tree on privately- or city-owned property shall be removed or substantially altered by a private landowner or a department of the city unless:

- (1) Under a declared emergency (section 105-25(1)(c)) or in the case of an imminent hazard (section 105-25(2)), the code enforcement officer, city manager, or a designee in their absence finds for a specific tree that immediate action is required to eliminate a condition endangering public safety or property.
- (2) In a non-emergency or non-imminent hazard situation:
  - a. On private property, the planning and zoning board approves the issuance of a tree permit to a private landowner to remove or substantially alter a tree on a lot because not doing so would make the lot undevelopable for any principal structure (section 105-26(1)(c)).
  - b. On private or city property, the city manager documents in writing his or her reasons for allowing removal or substantial alteration (sections 105-26(1)(c) and 105-26(2)(c)).

( Ord. No. 2018-07 , § I, 2-5-2019)

#### **Sec. 105-25. Activities exempted from or requiring a tree permit.**

- (1) A tree permit is not required for the following exempt activities:
  - a. Unprotected trees—The removal, relocation, or substantial alteration of:
    - Native trees not listed in section 105-23;
    - Native trees listed in section 105-23 that are less than four inches in diameter at breast height;
    - Cultivated varieties of once native trees developed by selective breeding and sold by plant nurseries;
    - and
    - Nonnative trees, including invasive species.
  - b. Pruning—Pruning of unprotected trees, and light pruning of protected trees that does not substantially alter the protected trees.

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c. Emergency—The removal or substantial alteration of any significantly-damaged, protected, non-patriarch tree during or following a natural or man-made disaster (e.g., hurricane, tornado, high wind, flood, or forest fire) when the city commission or manager declares a state of emergency and determines that permitting requirements will hamper private or public work to restore safety and order to the city. Permission is required to remove or substantially alter a patriarch tree (section 105-24(1)).

d. Highway and electric utility rights-of-way—The removal or trimming of protected trees by:

The Florida Department of Transportation along roads under its jurisdiction to maintain safe lines of sight at road intersections and alleys and horizontal clearance areas along roadways where errant vehicles leaving the roadway might travel.

The electric utility along power lines necessary for the maintenance of accepted public safety standards and system reliability.

(2) A tree permit is required for the following activities.

Any removal or substantial alteration of a protected tree not exempted in section 105-25(1). Some specific situations requiring a permit include:

Imminent hazard—The removal or substantial alteration of a protected tree when an applicant proposes that immediate action is required due to a condition endangering public safety or property.

Diseased or pest-infested tree—The removal or substantial alteration of a diseased or pest-infested, protected tree when an applicant proposes that doing so will prevent the spread of the disease or pests to healthy trees.

Storm-damaged tree—The removal or substantial alteration of a protected tree damaged by a storm for which the city commission or manager did not declare a state of emergency.

Tree in decline—The removal or substantial alteration of a protected tree that has lost vigor and displays pale green or yellow leaf color, small leaves, poor growth, leaf drop, or dieback of twigs and branches.

( Ord. No. 2018-07 , § 1, 2-5-2019)

## **Sec. 105-26. Permits for removal, relocation, or substantial alteration of protected trees.**

Any person wishing to remove or substantially alter a protected tree shall make application to the code enforcement officer on a tree application form provided by the officer.

A tree permit shall be issued to remove or substantially alter a protected tree only if such action is in compliance with these article II requirements and the section 109-50 site plan requirements.

Substantial alteration of a protected tree shall be allowed only under a declared emergency (sections 105-24(1) and 105-25(1)(c)), when a permit is obtained in the case of an imminent hazard (sections 105-24(1) and 105-25(2)), or when a permit is obtained in a non-emergency or non-imminent hazard situation to eliminate limbs that encroach on an adjacent structure.

(1) Private property.

a. If the proposed tree removal or substantial alteration is in conjunction with proposed development the planning and zoning board reviews (e.g., a newly-proposed structure, the expansion of an existing structure where the footprint increases in size, the construction of a driveway or walkway, or other such development that disturbs the land surface), the board shall



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implement these tree protection requirements at the time it reviews and decides to approve, conditionally approve, or disapprove the site plan.

- b. If the proposed tree removal or substantial alteration is not in conjunction with proposed development that the planning and zoning board reviews (e.g., tree removal due to tree roots affecting the structural integrity of a building foundation), the code enforcement officer, city manager, or a designee shall implement these tree protection requirements at the time he or she reviews and decides to approve, conditionally approve, or disapprove the proposal. Only the city manager shall make decisions on patriarch trees (subsection c).
- c. If the proposal is the removal or substantial alteration of a patriarch tree, the code enforcement officer shall provide a copy of the tree application to the tree committee appointed by the city commission. The committee shall review the tree permit application and make a recommendation to the decision maker (the planning and zoning board (subsection a) or the city manager (subsection b)).

When the board is the decision maker, approval or conditional approval to remove or substantially alter a patriarch tree on a privately-owned lot shall only be made when no principal structure could be legally built on the lot taking into consideration the location of the tree and such requirements as setbacks and minimum required size for single-family dwellings. Through the variance process the board of adjustment may consider reducing setbacks or minimum dwelling size if doing so would spare the tree.

When the city manager is the decision maker, the manager's reasons for allowing removal or substantial alteration of a patriarch tree shall be documented in writing.

(2) City property.

- a. A person wanting to remove or substantially alter a protected tree on city property adjacent to private property owned by the person (e.g., to create an entryway to a proposed driveway on private property) shall apply for a tree permit. Cost of the permit and tree removal or substantial alteration shall be borne by the applicant.
- b. A city department wanting to remove or substantially alter a protected tree on city property shall make a request to the code enforcement officer. To document the request, the code enforcement officer shall prepare a tree application for the proposed action. Removal or substantial alteration of the tree shall not occur unless the code enforcement officer, city manager, or one of their designees approves the removal or substantial alteration.
- c. If the proposal is the removal or substantial alteration of a patriarch tree, the code enforcement officer shall provide a copy of the tree application to the city manager and tree committee appointed by the city commission. The committee shall review the tree permit application and make a recommendation. The city manager shall make a decision on the proposal and document in writing the reasons for allowing any removal or substantial alteration.

As a condition of approval, decision makers may require that certain protected trees or native trees listed in section 105-23 that are less than four inches in diameter at breast height be relocated from the area of proposed development to an undeveloped location.

Under a tree permit, thinning of healthy protected trees may be justified if selective removal of trees improves the development of remaining trees and allows them to grow faster and in a fuller, characteristic form.

To ensure that a tree permit is not prematurely issued for a proposed development that is never approved, the tree permit and building permit will be issued simultaneously.

( Ord. No. 2018-07 , § 1, 2-5-2019)

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### **Sec. 105-27. Protection of trees during building operations.**

Within the drip line radius of a protected tree, the following activities shall not occur during development, redevelopment, or improvement: deposition of debris and fill; storage of gasoline, oil, paint, chemicals, and other toxic materials harmful to trees; and attachment of wire to trees.

Driveways and sidewalks of impervious concrete and asphalt may not be constructed within the drip line of protected trees.

( Ord. No. 2018-07 , § I, 2-5-2019)

### **Sec. 105-28. Utility easement trimming.**

Electric utility companies and their contractors that perform vegetation maintenance and tree pruning or trimming within electric utility right-of-way corridors shall do so in accordance with the following requirements. As defined in State law (F.S. § 163.3209), "vegetation maintenance and tree pruning or trimming" means "the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way."

- (1) All tree management will be limited to what is necessary for the proper maintenance of existing and new utility facilities in order to provide safe and reliable utility service.
- (2) Prior to vegetation maintenance and tree pruning or trimming, the utility shall provide the city manager with a minimum of five business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage.
- (3) The electric utility shall meet with the city manager, or the manager's designee (e.g., code enforcement officer), to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. The plan shall identify any patriarch trees that are proposed for trimming and the amount of trimming proposed.
- (4) Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to American National Standards Institute (ANSI) A300 (Part I)—2008 (R2014) pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements.
- (5) Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or contractors licensed to do business in the City of Apalachicola and trained to conduct vegetation maintenance and tree trimming or pruning consistent with these requirements or by certified arborists certified by the certification program of the International Society of Arboriculture. Trimming of patriarch trees may only be performed by certified arborists.

( Ord. No. 2018-07 , § I, 2-5-2019)

### **Sec. 105-29. Reforestation fund.**

Fees collected for the lawful removal of protected trees shall be placed in a reforestation fund maintained by the City of Apalachicola. (Fees for the administrative processing of tree permit applications (e.g., \$50.00 per application) and fines for the unlawful removal or substantial alteration of protected trees (section 105-30) shall not be placed in the reforestation fund.) Reforestation fund fees shall be spent to establish, maintain, and promote a reforestation program on city property, primarily in parks, squares, and along highway and street corridors.

Following are the reforestation fund fees that shall be collected for removal of protected trees.

Diameter at breast height of protected tree removed (inches)	Fee for each tree (\$)
4 to 16	25
Greater than 16 to less than 35	35
35 and larger (patriarch tree)	1,000

For a tree permit applicant not proposing to remove a patriarch tree, the maximum total reforestation fund fee collected for each lot covered by the application shall not exceed \$250.00.

For a tree permit applicant proposing to remove a patriarch tree, the maximum total reforestation fund fee collected for each lot covered by the application shall not exceed \$250.00 for the non-patriarch trees plus an additional \$1,000.00 for each patriarch tree.

( Ord. No. 2018-07 , § I, 2-5-2019)

**Sec. 105-30. Penalties for violations.**

Any person that removes or substantially alters a protected tree before a tree permit is obtained shall be charged a doubled permit application processing fee (e.g., \$100.00) for an after-the-fact permit.

If an after-the-fact tree permit is not issued because the tree removal or substantial alteration is not in accordance with these tree protection regulations, a fine in the amount specified in section III.D.1 of this Code shall be imposed. Each tree that is illegally removed or substantially altered is a separate offense.

Any person that illegally removes or substantially alters a patriarch tree shall be fined up to \$25,000.00.

Commercial tree care contractors or general contractors are required to be licensed by the city in order for them to conduct business within the city. Two or more violations of any provision of these tree protection requirements by any commercial tree care contractor or general contractor may result in revocation of such person's license to do business within the city.

( Ord. No. 2018-07 , § I, 2-5-2019)

**Secs. 105-31—105-30. Reserved.**